

ELIZABETH CITY STATE UNIVERSITY

Student Code of Conduct

The policies and procedures, herein described, govern the conduct of students of Elizabeth City State University (ECSU). Upon acceptance of admission to ECSU, each student agrees to abide by the policies of the University, as well as with the federal, state and local laws, and to conduct him/herself in a manner consistent with its educational mission. It is the responsibility of each student to be familiar with the University policies and procedures.

The Student Code of Conduct applies to all students, student organizations, and student groups regardless of whether or not the alleged behavior occurred on or off campus or whether the conduct was in direct relation to the university. Further, the Student Code of Conduct may also be applied to behavior conducted online, via e-mail, or through other electronic mediums. ECSU may take action if such information is discovered or brought to the attention of University officials.

This includes conduct in connection with, but is not limited to:

- a. Work related to co-curricular educational activities and experiences, such as class projects, field trips, work-study, study abroad, community service, or internships – not including academic dishonesty;
- b. Activities sponsored, conducted, or authorized by ECSU or its student organizations;
- c. Activities that cause or threaten harm to the health, safety, well-being, or property of ECSU or any member of the ECSU community;
- d. Activities that unreasonably disturb the peace and privacy of a student's neighbors when living in off-campus housing;
- e. Any conduct by a student that occurs during or outside of the academic term, even if the student subsequently graduates, withdraws, takes leave, or is otherwise absent from ECSU, and/or if the University does not learn of such conduct until after the student graduates, withdraws, takes leave, or is otherwise absent;
- f. The Student Code of Conduct applies to participants on overseas and off-campus programs, who are expected to act in accordance with University rules and regulations but assume added responsibility to the group and to the laws and customs of the host country or local jurisdictions.

NOTE: Student Conduct charges and associated process is independent and separate from local, state, or federal legal system. Student Conduct charges and associated process will proceed regardless of the status or outcome of a student's local, state, or federal legal status.

A. RIGHTS AND RESPONSIBILITIES

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 State Constitution. The university has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights. Students are guaranteed the following elements of fundamental fairness throughout the Conduct Process:

1. to be provided a fundamentally fair process;
2. to be presumed not responsible for a violation of the Code until determined otherwise;
3. to be given written notice of any allegation(s) or formal charge(s) of prohibited conduct;
4. the right to have a reasonable amount of time to prepare for a hearing;
5. 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;
6. to present relevant information on their behalf;
7. to be represented by an Attorney or Non-Attorney Advocate throughout the entire Student Conduct Process, provided written Notice of Representation, a signed FERPA authorization, and Certification forms;
8. to have sanction(s) imposed on the basis of the guidelines set forth in the Code;
9. to be informed of the final decision and results of a disciplinary proceeding;
10. to know the identity of individuals speaking or providing written information for consideration at any hearing;
11. 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;
12. to request a delay of the hearing for academic or extenuating circumstances;
13. to admit responsibility for any or all of the charges against them;
14. to request that a member of a Board be excluded from the hearing on the basis of a conflict of interest or bias;
15. to not speak or answer any question(s), if such testimony or answers would tend to establish against them a violation of the 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 the hearing;
16. to pose reasonable questions to any witness appearing at a hearing in a manner determined by the Chair; except the alleged victim of alleged sexual violence;
17. to appeal any decision of a Hearing Panel, pursuant to Section 10 of the Code;
18. to have supervised access to a recording of the hearing proceedings; and
19. to have any disciplinary records kept confidential, unless an exception is allowed or required by law or regulation.

B. STUDENT CONDUCT DISCIPLINARY PROCESS

Disciplinary Process Purpose

When a student engages in behavior that may violate the Student Code of Conduct, the processes set forth in this section shall be followed. The Office of the Dean of Students shall delegate primary responsibility over the disciplinary process for resolution of student conduct issues.

The disciplinary procedures at ECSU are designed to address violations of disciplinary or conduct rules in manner that prioritizes student development and education. While disciplinary procedures may result in the imposition of sanction in appropriate cases, the primary objectives of these disciplinary procedures are to uphold honor, integrity, and personal responsibility and to promote student learning, safety, health, and wellbeing.

At educational institutions, disciplinary proceedings do not follow the same procedures used in courtrooms. The focus of inquiry in the disciplinary process is to determine whether the Respondent is responsible for engaging in Prohibited Conduct under Section 11 of the Code. The University applies the Preponderance of the Evidence standard when determining whether this policy has been violated. Preponderance of the Evidence means that it is more likely than not that a policy violation occurred. Disciplinary Procedures are not subject to the Federal Rules of Evidence or the Rules of Civil Procedure. As a result, information that might be deemed “hearsay” or is otherwise inadmissible during formal legal proceeding might be considered by the hearing administrator or the Student Conduct Board.

Initiation of the Disciplinary Process

1. Reporting Allegations

- 1.1. Any member of the University community may report a student, student organization, or student group suspected of violating the Student Code of Conduct to the Office of the Dean of Students. The report must include factual information supporting the allegation(s). Allegations concerning violations of the Code may be reported in person or submitted online at https://cm.maxient.com/reportingform.php?ElizabethCityStateUniv&layout_id=1.
- 1.2. Complaints shall be submitted as soon as possible after the incident takes place, preferably within thirty (30) days of the discovery of the violation.
- 1.3. Upon receipt of a report, the Office of the Dean of Students will conduct a preliminary investigation of the allegation(s) included in the report. In the absence of sufficient

substantive evidence, a report will be dismissed.

2. Presumption of Innocence

- 2.1 Any student, student organization, or student group charged with an alleged violation of the Student Code of Conduct shall be presumed innocent until proven responsible by a preponderance of evidence.

3. Notification of Misconduct Allegation(s)

- 3.1. Allegations of misconduct will be presented to Respondent by means of a written notice of referral from the University Police or in other cases by electronic notification to the student's ECSU email directing the student to appear at a specified time and place for a Student Conduct Conference to discuss the allegation(s).
- 3.2. If an accused student fails to respond to the notification letter or attend the student conduct conference, the process will continue without the student's input. A determination of responsible or not responsible will be made based upon available information. The student will be notified in writing.

4. Student Conduct Conference

- 4.1. The Student Conduct Conference shall be held within five (5) days of the notification.
- 4.2. The Student Conduct Conference shall be held with a conduct officer from the Office of Dean of Students or designee.
- 4.3. During the Student Conduct Conference, the Respondent will be:
 - a. Afforded the opportunity to review his or her rights and responsibilities.
 - b. Notified of the possible charges which may result from the allegation(s).
 - c. Given the opportunity to discuss the allegation(s) and provide information.
 - d. If the Respondent is formally charged with a conduct violation, the conduct officer will inform the student of his/her options available for resolution and procedures in cases of failure to respond or withdrawal from the University in the face of conduct charges.

5. Options for Resolution of Disciplinary Charge(s)

- 5.1 Respondents who have disciplinary charge(s) pending against them may choose one or more of the following means of resolution:

- a. Accept responsibility for the charge(s), waive a hearing on the charges and accept the sanctions to be levied after an administrative review by the Dean of Students or their designee.
- b. Deny responsibility for the charge(s) and request a hearing before an administrative hearing officer or the student conduct board (SCB) where a determination of responsibility will be made. If the Respondent is held responsible, an appropriate sanction will be determined.
- c. Request that an interim sanction be imposed so that the Respondent may resolve any pending criminal charges prior to proceeding with the campus disciplinary process.

6. Adjudication Methods

6.1. Administrative Hearing

- a. An Administrative Hearing Officer shall become involved when a Respondent who is charged with an alleged violation of the Student Code of Conduct requests a hearing before an administrative hearing officer or when a case is referred by the Dean of Students or their designee.
- b. During the Administrative Hearing, the Respondent will be provided with
 - i. an explanation of the charges;
 - ii. a summary of the information gathered in support of the charges;
 - iii. a reasonable opportunity for the Respondent to reflect upon and respond on their own behalf to the charges;
 - iv. and an explanation of the applicable disciplinary procedures.
- c. The Administrative Hearing Officer will determine whether the Responding party is responsible or not responsible for the alleged violation(s) of the Student Code of Conduct and, if so, the appropriate disciplinary sanction(s) to apply, based on a preponderance of evidence. In determining the sanction(s), the Administrative Hearing Officer will consider any aggravating or mitigating factors, including any prior violation(s) of the Student Code of Conduct.
- d. The Respondent will be notified of the decision in writing within three (3) days of the conclusion of the hearing.
- e. The written decision will include
 - i. a statement of the charge(s),
 - ii. the determination,
 - iii. and the sanction to be imposed, if any.

This decision is considered to be in effect, unless the Respondent submits a notice of appeal within two (2) days after the Respondent is notified in writing of the decision.
- f. A Respondent who fails to attend their scheduled hearing shall have the case adjudicated by the Administrative Hearing Officer in the Respondent's absence.

Note: An Advisor or Advocate without the presence of the Respondent cannot fulfill the Respondent's attendance obligation

6.2. Student Conduct Board

- a. The Student Conduct Board (SCB) shall become involved when a Respondent requests a hearing before the SCB. The SCB is a board composed of faculty, staff, and student members. The Dean of Students or their designee serves as the advisor to the SCB.
- b. A quorum shall consist of any three (3) individuals (to include the chair) selected from the pool of members, which includes a minimum of five (5) students, faculty, and staff members from the University:
 - i. a minimum of five (5) students recommended by the President of the student body or their designee;
 - ii. a minimum of five (5) faculty members recommended by the Vice Chancellor for Academic Affairs or their designee;
 - iii. a minimum of five (5) administrative staff members recommended by the Vice Chancellor of Student Affairs or their designee.
- c. The chair of the SCB shall be appointed by the student body as Attorney General and is a non-voting member, except when there is a tie vote.
- d. The students recommended by the President of the student body for appointment to the SCB are selected through a campus wide application process.
- e. SCB members will be appointed by September 1st each year. Appointments are for one (1) year.
- f. SCB members may be reappointed by the Vice Chancellor of Student Affairs or their designee.
- g. Vacancies occurring during the course of the year will be filled by the Dean of Students or their designee.
- h. SCB members become active members only after they have been trained by the Division of Student Affairs.

7. Student Conduct Board Hearing Procedures

- 7.1. The chair of the SCB will state that the hearing is closed to the public. The chair will also remind everyone present that the hearing proceedings are confidential.
- 7.2. The chair will facilitate the introductions of those present and will explain the hearing procedures to the parties.
- 7.3. The chair will state the charge(s) against the Respondent, advise the Respondent of their rights and responsibilities according to the Student Code of Conduct and ask the Respondent to enter a response to the charges.

- 7.4. The Dean of Students or their designee will present the University's case in the form of documentary evidence and witnesses.
- 7.5. The SCB will be permitted to question the Dean of Students or their designee and witnesses.
- 7.6. The Respondent may respond to the charges and may also present evidence in the form of documents and witnesses.
- 7.7. The SCB will be permitted to question the Respondent and their witnesses.
- 7.8. The Dean of Students or their designee and the Respondent will be permitted to present rebuttal evidence.
- 7.9. The Dean of Students or their designee will be provided with the opportunity to make a closing statement.
- 7.10. The Respondent will be provided with the opportunity to make a closing statement.
- 7.11. The Chair will conclude the evidentiary portion of the hearing and the SCB will deliberate in closed session.
- 7.12. The decision of the SCB shall be determined by majority vote.
- 7.13. The SCB will then deliberate and determine an appropriate sanction. All sanctions imposed shall be pursuant to and in accordance with the sanctions outlined in this policy. These deliberations shall be conducted in closed session.
- 7.14. The SCB shall render a written decision as to the Respondent's responsibility and any sanction(s) determined within three (3) business days of the conclusion of the hearing. The decision shall state the procedures for an appeal.
- 7.15. Decisions and sanctions rendered by the SCB are considered effective immediately unless the Respondent submits a notice of appeal within two (2) days after the Respondent is notified in writing of the decision.
- 7.16. A Respondent who fails to attend their scheduled hearing shall have the case adjudicated by the SCB in the Respondent's absence. **Note: An Advisor or Advocate without the presence of the Respondent cannot fulfill the Respondent's attendance obligation.**

8. Representation During Disciplinary Procedures

- 8.1. In accordance with North Carolina General Statute §116-40.11[1], students, student organizations and student groups at Elizabeth City State University who have been accused of a violation of disciplinary or conduct rules may be represented by a licensed attorney or a non-attorney advocate during any disciplinary procedure except when the violation:
 - a. will be heard by a Student Honor Court; or
 - b. is an allegation of Academic Dishonesty, as defined by ECSU.
- 8.2. When scheduling disciplinary procedures, ECSU will make reasonable efforts to accommodate a licensed attorney or non-attorney advocate. However, the availability of students or student organization members; witnesses; the designated administrator, panel or board members assigned to the matter; and other necessary participants may take priority when determining the date and time for a disciplinary procedure.
- 8.3. Nothing in this policy shall be construed to create a right to be represented during a disciplinary procedure at public expense.
- 8.4. A student, student organization or student group may be represented by a licensed attorney or non-attorney advocate provided written Notice of Representation, a signed FERPA authorization, and Certification forms are received as outlined in the letter of notification sent via email to the Responding Party. **Note: The Notice of Representation must include the identity of the Advisor or Advocate and specification of their status, address, telephone number, and email where they may be reached. The FERPA Authorization and Certification forms will be provided in the notification email.**
- 8.5. Licensed attorneys or non-attorney advocates may fully participate in disciplinary procedures only to the extent afforded to the student or student organization they represent. Additionally, licensed attorneys and non-attorney advocates may not delay, disrupt, or otherwise interfere with a disciplinary procedure.
- 8.6. An attorney or other individuals representing ECSU may participate in disciplinary procedures in which a licensed attorney or non-attorney advocate represents a student, student organization or student group.

9. Appeal of Administrative/Student Conduct Board Determinations

- 9.1. In the event that a Respondent disagrees with the findings of an Administrative

Hearing Officer or the Student Conduct Board, the Respondent may request an appeal to the Vice Chancellor of Student Affairs after notification of the decision in writing. The Respondent must submit the Request for Appellate Consideration form to the Office of the Dean of Students within two (2) days for prompt consideration.

- 9.2. An appeal may be sought on two grounds:
 - a. On a claim of error in the hearing procedure;
 - b. On a claim of new and significant information that would have affected the outcome of the hearing and that was not known, or could not reasonably be discovered and/or presented at the time of the hearing.
- 9.3. Following a review of the appeal, the Vice Chancellor of Students Affairs may:
 - a. Uphold the original decision;
 - b. Modify the original decision and adjust the imposed sanction;
 - c. Overturn the original decision and remand for a new hearing.
- 9.4. The Respondent will be notified in writing of the decision within five (5) days after receiving the request for appellate consideration. If the Vice Chancellor of Student Affairs overturns the original decision and remands the case to a new hearing, that hearing shall be held within five (5) days of such determination and notification shall be given in writing, specifying the hearing date, time, and location. The notification will also include information to the Respondent regarding their rights and responsibilities.
- 9.5. Any disciplinary decision, other than expulsion decisions, may be appealed to the Vice Chancellor of Student Affairs, whose decision shall be final and no further appeal of the decision is permitted.
- 9.6. Expulsion decisions may be appealed to the Chancellor. The Chancellor's decision on appeal shall be the final and no further appeal of the decision is permitted.

10. Prohibited Conduct

The following conduct, committed or attempted, is prohibited for all students, student organizations, and student groups and is subject to disciplinary sanctions:

10.1. Academic Misconduct

All academic related matters, not associated with a student's classroom behavior, are handled by Academic Affairs. The following are several types of academic related matters that are prohibited by Academic Affairs:

- a. Plagiarism: Using another's work, in whole or in part, without acknowledging

the source, presenting that material as one's own academic work or in violation of course assignment standards.

- b. Cheating: Any attempt by a student to answer questions on a test, quiz, or assignment by means other than his or her own knowledge, without authorization from the instructor in an attempt to obtain an unfair academic advantage.
- c. Multiple Submissions: Submitting the same academic work for credit more than once unless specifically authorized by the instructor of record.
- d. Fabrication or Falsification: Knowingly using and/or presenting invented or fabricated information, falsified research, or other findings.
- e. Misrepresentation: Misrepresenting facts in an attempt to gain an academic advantage.
- f. Posing as another student, including, attempting to meet a course or graduation requirement.
- g. Providing specific information about a recently given test, examination, or assignment to a student who thereby gains an unfair advantage.
- h. Providing aid to another person, knowing such aid is expressly prohibited by the faculty member, in the research, preparation, creation, writing, performing, or publication of work to be submitted for academic evaluation.
- i. Permitting one's academic work to be represented as the work of another.
- j. Sharing or distributing academic materials, including class notes, in violation of the UNC Policy Manual 500.2 – Patent and Copyright Policies.

10.2. Acts of Dishonesty

Making or furnishing false information, to include but is not limited to:

- a. Furnishing false information to University officials or law enforcement officers acting within the scope of their job duties.
- b. Forgery, alteration, defrauding or misuse of individual and/or University documents or records.
- c. Possession, use, and/or attempted use, manufacture, distribution or sale of false identification.
- d. Misrepresenting self in or regarding any transaction, whether oral, written or by other means.
- e. Transferring, lending, borrowing, or altering University identification.
- f. Withholding, with full knowledge, information from the University.

10.3. Alcohol

The illegal or irresponsible use, possession, manufacture, and distribution of alcohol on university policy is prohibited, to include but is not limited to:

- a. Possession and/or use of alcohol under the age of 21.
- b. Sale and/or distribution of alcohol to an individual under the age of 21.

- c. Being intoxicated or overcome by alcohol while in public.
- d. Operating a motor vehicle while intoxicated or under the influence of alcohol.
- e. Manufacture of any type of alcoholic beverage while living in student housing.
- f. Possession and/or use of common source alcohol containers.
- g. Hosting a social event with alcohol that involves disruptive behavior, illegal use/possession of alcohol, and/or other violations of university policy.
- h. Participation in behaviors/games/devices which are consistent with rapid consumption of alcohol, including, but not limited to, beer funnels/bongs, keg stands, shot-gunning/chugging, flip cup, circle of death, quarters, etc.

10.4. Assault

The act of physical harm or threaten to cause physical harm to another person. This includes, but is not limited to, any unwanted touching or attempted unwanted touching that causes physical injury or pain to another person.

10.5. Disruptive and Disorderly Conduct

Such behavior that disrupts or prevents the peaceful or orderly conduct of classes, lectures, meetings, or other University functions. Conduct that is disorderly, lewd, or indecent, including but is not limited to:

- a. Disrupting and/or interfering with university operations including, but not limited to, obstruction of teaching, learning, research, and/or administrative activities that occur on or off campus.
- b. Causing, inciting, or participating in any disturbance that presents a clear and present danger to others, causes physical harm to others, or damage and/or destruction of property.
- c. Failure to comply with lawful orders of University officials or law enforcement officers acting within the scope of their job duties.
- d. An act that deliberately interferes with the freedom of speech of any member or guest of the university community.

10.6. Drugs, Drug Paraphernalia, and Other Controlled Substances

The illegal or irresponsible use, possession, manufacture, and distribution of drugs, drug paraphernalia and other controlled substances on university property is prohibited, to include but is not limited to:

- a. Unauthorized possession and/or use of a controlled substance.
- b. Sale and/or distribution of a controlled substance.
- c. Being intoxicated or overcome by a controlled substance or drug while in public.
- d. Operating a motor vehicle while intoxicated or under the influence of a controlled substance.
- e. Manufacturing any type of controlled substance or drug.
- f. Possession of any drug related paraphernalia, including, but not limited to,

devices commonly used for smoking marijuana and other drug devices commonly employed in the use of drugs.

- g. Hosting a social event in which controlled substances or drugs are being used.
- h. Knowingly being in the presence of others violating the drug policy.

10.7. Misuse of Electronic Devices

Any unauthorized use of electronic or other devices to make an audio or video record of any person while on university premises without their prior knowledge, or without their effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures or video of another person in what is considered a private area (i.e. gym, locker room, or restroom).

10.8. Endangering Health and Safety

Any act or conduct that threatens the health and safety, or well-being of one's self or another person; 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, this includes harassment, intimidation, or coercion.

10.9. Failure to Comply

- a. Failure to comply with the official and proper of a clearly identifiable university official or law enforcement officer acting within the scope of their employment.
- b. Uncooperative response to faculty members, university officials, or any local, state, and federal law enforcement officer acting within the scope of their employment.
- c. Failure to present personal identification when requested to do so by a university official acting within the scope of their employment.

10.10. False Alarm/Misuse of Fire or Safety Equipment

Misusing, tampering with, or disturbing without proper cause any fire prevention and control equipment. This includes, but is not limited to, setting, attempting to set, or assisting in setting a fire, or misusing or damaging fire safety equipment including, but not limited to smoke detectors, fire extinguishers, or hoses. This also includes not evacuating during a fire drill.

10.11. Gambling

Placing a bet or wager on an uncertain outcome for money or other items of value unless permitted by law. Also includes engaging in activities further defined by North Carolina law.

10.12. Harassment, Bullying, or Intimidation

Repeated, persistent, severe, or pervasive actions directed toward specific individual(s) with the intent or effect to harass, harm, or alarm, including attempted or threatened physical contact, or acts that create the reasonable apprehension of unwanted contact. Such acts may include but are not limited to face-to-face interactions, phone calls, text messages, and/or use of social media.

10.13. Hazing

Any action that recklessly or intentionally endangers the mental, emotional, or physical health and/or safety of a another person in connection with initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, fraternity, sorority, or other group, regardless of the person's willingness to participate in such activity.

- a. Brutality of a physical nature including, but not limited to, paddling, whipping, beating, branding, forced calisthenics, exposure to the elements.
- b. Coerced consumption including, but not limited to, any food, alcoholic beverage, liquid, drug, or any other substance - especially those that may subject the student to a risk of harm.
- c. Acts intended to cause mental stress including, but not limited to, sleep deprivation, transportation and/or abandonment, confinement to a small space, forced exclusion from social contact, forced contact which could reasonably result in embarrassment, any forced activity that is designed to shame and/or humiliate, or any act of harassment.
- d. Coerced activities including, but not limited to, violation of local/state/federal laws, violation of university policies/rules/regulations, and personal servitude.

NOTE: It is illegal to haze, or be hazed, pre and post the timeline of a regulated and sanctioned new member process. In other words, it is illegal to pre-pledge/haze and it is illegal to post-pledge/haze.

10.14. Misuse of the Student Conduct System

- a. Falsification, distortion, or misrepresentation of information during the Student Conduct Process, including filing a false complaint against another person.
- b. Hindering or interfering with the Student Conduct Process, including, failing to abide by the notice from a University official to appear for a student conduct meeting or hearing.
- c. Intimidation or retaliation in response to an individual's participation in, or use of, the Student Conduct Process.
- d. Failure to comply with the sanction(s) imposed under the Student Code of Conduct.

10.15. Offensive or Disruptive Speech/Conduct

Engaging in objectively offensive or disruptive speech or conduct directed toward a member of or visitor to the university community if such language or conduct is obscene or so severe and pervasive as to constitute legally prohibited harassment in that it effectively prevents an individual from obtaining an education or creates an objectively hostile educational or work environment.

10.16. Sexual Misconduct

The University prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Complicity in the commission of any act prohibited by this policy, and Retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy (collectively, “Prohibited Conduct”). The Policy on Sex and Gender Based Discrimination and Harassment, Interpersonal Violence and Stalking can be found in policy 900.4.1.5.

10.17. Theft

Stealing or attempting to steal, aiding or abetting, receiving stolen property, selling stolen property, or embezzling the property of another person or the University.

10.18. Unauthorized Entry/Trespassing

Entering or accessing or attempting to enter or access University premises or property of another without permission, including but is not limited to roofs, storage facilities, crawl spaces, mechanical rooms, and buildings or student property (i.e. automobiles, lockers, residences) or unauthorized possession, duplication, loan, or use of keys to any University premise or property.

10.19. Vandalism and Damage to Property

Vandalism, malicious destruction, damage, misuse or abuse of public or private property, including library materials and computer programs and equipment.

10.20. Violation of Local, State, and/or Federal Law

Conduct that would constitute a violation of any local, state, and/or federal law.

10.21. Violation of University Policies, Regulations, and/or Rules

Conduct that would constitute a violation of any written policies, regulations or rules of the University.

10.22. Weapons, Explosives, and Dangerous Chemicals

Possession, use, manufacture, and distribution of weapons, explosives, and dangerous chemicals is prohibited on university property, to include but is not

limited to:

- a. Possession, storage, or use of weapons including, but not limited to, firearms, compressed-air guns, stun guns, pellet BB guns, etc. on university owned or affiliated property except as expressly permitted by law.
- b. Possession, storage or use of dangerous materials including but not limited to fireworks, explosives or chemicals which are corrosive or explosive on university owned or affiliated property except as expressly permitted by law.
- c. Any object not mentioned above used to intimidate, threaten, harm, and/or provide force can be considered a weapon under this provision.

11. Sanctions

A conduct sanction is an educational tool designed to address violations of Prohibited Conduct.

Upon any final finding of responsibility of a Student Code of Conduct violation, one or more sanction(s) may be imposed for each violation. Failure to complete any assigned sanction may result in a separate violation of the Student Code of Conduct. Sanctions relate to the nature and context of the policy violation as well as the developmental needs of the student found responsible. Progressive sanctions are necessary when a student is found responsible for repeated or similar violation of misconduct.

These sanctions are not reported to external agencies as a University disciplinary action, unless required by law:

11.1. Disciplinary Warning

An official reprimand that is formally communicated by a letter to the student, group, organization - its advisers and members, giving notice and warning that any subsequent Student Code of Conduct violation will carry more serious sanctions.

11.2. Disciplinary Probation

Permits continuation of the relationship between the Respondent and the University for a specified period of time, a minimum of one semester, during which the Respondent is given the opportunity to demonstrate the ability to abide by the Student Code of Conduct. Subsequent violations of the Student Code of Conduct during the term of a probation may result in more severe sanctions, up to and including suspension or expulsion. Disciplinary Probation is a status in which the Respondent is deemed not to be in good conduct standing with the University for a defined period of time any may be prohibited from participating in certain leadership opportunities or social privileges.

NOTE: The sanction of disciplinary probation may prohibit graduation until the period of probation has ended and the student has complied with all requirements.

11.3. Educational Experience

Learning opportunities, including but not limited to, community service, drug and alcohol education, and written papers.

11.4. Removal of Privileges

Loss of access to University services, activities, facilities or registration privileges which may impact participation in extracurricular activities, residence in University housing, University employment, Honors College, leadership within student.

11.5. Restitution

Appropriate reimbursement for a wrongful or negligent act which resulted in loss, damage, or actual expenses occurred by the University.

11.6. No-Contact Order

The Dean of Students or their designee may issue a University temporary no-contact order pending the outcome of any conduct proceeding or investigation. The Respondent is instructed to avoid direct and indirect contact with an identified individual or group. This includes but is not limited to contact in person, through electronic means, or through a third party.

11.7. Deferred Suspension

Permits continuation of the relationship between the Respondent and the University; a specified period of time during which the Respondent is given the opportunity to demonstrate the ability to abide by the Student Code of Conduct. Subsequent violations of the Student Code of Conduct during the term of a deferred suspension will result in a full suspension.

These sanctions are reported to external agencies as a University disciplinary action and as required by law:

11.8. Suspension

The removal of a Respondent from the University for a defined period of time, for a maximum of six consecutive semesters, during which a Respondent loses all University privileges, which generally includes access to facilities, programs, classes, and premises. The Respondent's name will be included in the UNC System database for suspended/expelled students. Consistent with the University's continuous enrollment policy, all students who do not attend ECSU for one or more successive semesters, must submit an application for readmission.

11.9. Expulsion

The permanent dismissal of a Respondent from the University, during which a Respondent is administratively withdrawn from classes and loses all University privileges, which generally includes access to facilities, programs, classes, and premises. The Respondent's name will be included in the UNC System database for suspended/expelled students. Expulsion precludes enrollment at any UNC constituent institution.

11.10. Interim Action

When the Dean of Students or their designee has reasonable cause to believe that the Respondent may pose a risk to the safety or well-being of those involved or others in the University community, the student, student organization, or student group may be issued one or more interim action(s).

Interim actions may include, but are not limited to the following: interim suspension, issuing a no contact order(s); restriction from specific facilities or locations; requirement to secure a psychological or other personal evaluation; cease and desist mandates; restriction from facilitating or participating in student organization business or activities; suspension of student status or student organization recognition, etc. An interim action shall remain in effect until removed or altered by the Dean of Students or their designee or as the result of the student conduct hearing.

Interim Suspension

Interim suspension shall be exercised when there is reasonable cause to believe that the Respondent's alleged act of misconduct is of such a serious nature that their continued presence on campus may pose a significant threat to the health and safety of others, and/or when the student's behavior(s) significantly disrupts the educational pursuits and/or living environment of others. 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; hazing; possession of weapons; false bomb threats or community threats against University officials, staff or faculty; armed robbery; arson; the manufacture, distribution, and/or possession of any incendiary or explosive device; and other acts which might endanger persons or property. This list is not exhaustive or conclusive.

- a. The Respondent will be issued written notice of the interim suspension. Upon notice, the Respondent must leave campus, not to return unless in compliance with explicit instruction or directive in the notice.
- b. While operating under an interim suspension, the student shall exit the premises of University property and not reenter any such property unless in compliance with explicit instruction or directive outlined in the Notice of Interim Suspension.

Non-compliance will result in arrest for trespass and the student may be subject to additional actions in ECSU's disciplinary process.

- c. The Respondent may appeal within two (2) days of the issuing of the Interim Suspension by submitting the request for appellate consideration form) based upon the following issues only:
 - i. Whether the allegation(s) concerning the Respondent's conduct is based upon reliable information; and
 - ii. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University premises poses a substantial threat.
- d. The Interim Suspension will remain in effect pending the outcome of the appeal decision.
- e. If the appeal is approved, the Respondent will be notified in writing of the decision to uphold, modify, or terminate the interim suspension within five (5) days of receiving the written appeal. The decision of the Vice Chancellor of Student Affairs shall be final and is not subject to further appeal.
- f. If the Respondent does not appeal the interim suspension, or if the appeal is denied, the regular student conduct process shall proceed on the normal schedule.
- g. The Vice Chancellor of Student Affairs may require the Respondent to provide additional information relevant to the determination of health and safety risks posed by the student, and the timeframe for decisions outlined herein may be extended in order to enable the development and review of such information.

NOTE: The interim suspension process is separate and distinct from the processes of investigation and adjudication undertaken pursuant to other ECSU policies and regulations, including those occurring under the Student Code of Conduct Policy. Interim suspension is authorized as an interim measure to protect the University community pending resolution of charges of misconduct.

12. Student Records

The following pertains to student records from student conduct matters involving ECSU undergraduate and graduate students.

12.1 Family Educational Rights and Privacy Act of 1974

Disciplinary files retained by the Office of the Dean of Students shall be in compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA). A Respondent's disciplinary file is not released outside the University without the written and dated consent of the Respondent identified in the record and a record shall be maintained of each request for a Respondent's disciplinary file. Disciplinary

information will be provided within the University to individuals who are determined to have a legitimate, educational interest in obtaining this information. Disciplinary records may also be shared with third parties to the extent allowed under FERPA. Victims of violence will be notified of the final disposition of the case to include the name of the accused, the written notification of the charges filed against the accused, the decision of the administrative hearing office or hearing panel, the sanctions imposed (if any), the date the sanctions were imposed and the duration for which the sanctions shall be imposed. When students under the age of 21 are found responsible for violating alcoholic beverage and/or controlled substance laws or policies, ECSU will notify their parent or guardian of such violations if the student is under the age of 21 at the time of the notification, in accordance with FERPA.

12.2 Awarding of Degree(s)

The University does not award degrees solely because a Respondent successfully completed all academic requirements. Violations of the Student Code of Conduct, including academic and non-academic violations, might result in a degree not being awarded. When a Respondent has a conduct case pending, the awarding of the degree may be delayed until the case is adjudicated and/or closed.

12.3 Disciplinary Hold

The Dean of Students or their designee may apply a disciplinary hold to a Respondent's account to facilitate participation in the student conduct process or to facilitate completion of sanction(s). The disciplinary hold limits activity on a Respondent's University record and prevents the Respondent from completing University processes, including but not limited to: pre-registration, registration, drop/add, withdrawal, graduation, receiving official transcripts.

12.4 Withdrawal

Respondents with a pending conduct case may not be permitted to withdraw from the University without first resolving the case or receiving permission from the Dean of Students or their designee to do so. Withdrawal from the University will not alter the student conduct process.

12.5 Administrative Withdrawal for Disciplinary Reasons

Respondents who are suspended for violations of the Student Code of Conduct will be administratively withdrawn from their courses for the semester of the case outcome. An Involuntary Administrative Withdrawal for disciplinary reasons letter will be forwarded by the Office of the Dean of Students or their designee to the Registrar's Office, Financial Aid, and Academic Affairs. Respondents with a pending conduct case might be prohibited from future enrollment until the conduct matter is resolved by the University.

12.6 Readmission following Student Conduct Withdrawal

Respondents who are suspended for violations of the Student Code of Conduct must submit an application for readmission. While the Respondent may be cleared for readmission for a conduct related suspension, they must still meet all academic and financial standards, as determined by the Office of the Registrar and Office of Financial Aid, for readmission to the university.

12.7 Release of Student Conduct Records (to student)

A student wishing to receive a copy of their conduct record must complete and submit the Release of Information / Authorization Form to allow the Office of the Dean of Students to provide a copy of the requested conduct file(s) to the student. Please allow up to five (5) business days to process this request, as all documents must be redacted for identifiable information pertaining to other students.

12.8 Release of Student Conduct Records (to someone other than the student)

Students wishing to release information pertaining to their conduct record must complete and submit the Release of Information/Authorization Form. The Dean's Certification Form will be given in person or sent to the authorized e-mail address provided by the student. Please allow up to five (5) business days to process this request, as all documents must be redacted for identifiable information pertaining to other students.

13. Definition of Terms

The below definitions apply to the Student Conduct Process. For definitions and other information related to the Sexual Misconduct Process, see the Sexual Misconduct, Stalking, and Dating Violence Policy (900.4.1.5).

- 13.1. Campus - Property or buildings owned, leased, rented, operated, controlled, managed, or otherwise under the jurisdiction of ECSU or its affiliates, regardless of their location.
- 13.2. Members of the University Community - Refers, collectively and individually, to faculty, staff, students, Trustees, volunteers (e.g., advisors), organizations, divisions, sub-divisions, groups, alumni, and contractors of the University or any of its campuses, facilities, programs, or events.
- 13.3. Student - Any person from the time they accept admission to ECSU up through the date of graduation or official withdrawal from the University. This includes, but is not limited to, new students at orientation, persons not currently enrolled but who are

still seeking a degree from ECSU, persons currently under suspension, and any other person enrolled in a course or program offered by ECSU.

- 13.4. Student Groups - A number of persons who are associated with the University and each other, but who have not registered, or are not required to register, as a student organization (included but not limited to athletic teams, musical or theatrical ensembles, academic or administrative units, clubs not registered as a student organization).
- 13.5. Student Organizations - A number of persons who are associated with the University and each who are registered with and recognized by the University (included but not limited to Greek letter organizations, social, service, and thematic groups).
- 13.6. University - Elizabeth City State University (ECSU), including online programs and off-site locations.
- 13.7. University Facility - Any building or other facility, including an athletic or recreational field that is owned, operated, and/or under the jurisdiction of the University.
- 13.8. University Official - Any person employed by the University (including but not limited to faculty, staff, administration, and student staff members) acting within the scope of their job duties.
- 13.9. Referral/Incident Report - Document which contains the basis for the alleged violation of the Student Code of Conduct including, but not limited to, police reports, formal statements from university officials submitted to the Dean of Students and/or their designee.
- 13.10. Referring/Reporting Party – The person or office that reported the alleged violation of the Student Code of Conduct to the Dean of Students and/or designee. The Referring Party may be the person who was subject to alleged misconduct, a witness to the misconduct, or a university official who the alleged violation has been reported to. There may be more than one reporting party for an incident.
- 13.11. Responding Party or Respondent- The accused student, student group, or student organization who is alleged to have violated the Prohibit Conduct section of the Student Code of Conduct. There may be more than one Responding Party or Respondent for an incident. In the cases of student groups or student organizations senior most officer or officers will participate in the Student Conduct Hearing on behalf of the group or organization.

- 13.12. Witness – Person(s) requested to participate in an investigation, by interview or written statement, or attend and give a verbal witness statement at a hearing because they may have information about the alleged misconduct. Suggested witness names may be supplied by the Referring Party, Responding Party, or others with knowledge of the matter.
- 13.13. Hearing Officer - Any person, or persons, authorized by the Dean of Students, or designee to be a member of an administrative hearing or hearing board designated to give reasoned judgement of finding as to whether a student has violated the Prohibited Conduct section of the Student Code of Conduct. They have the authority to conduct Administrative Hearing and to serve on a Hearing Board. Hearing Officers have the authority to impose the full range of sanctions under the Student Code of Conduct Policy and Procedures.
- 13.14. Student Conduct Board - A select group of several hearing officers (students, faculty, and staff) that has been designated to make findings as to whether a student has violated the Prohibited Conduct section of the Student Code of Conduct.
- 13.15. Hearing Chair - A specific hearing officer who is designated to lead the hearing process during all hearings, to guide the hearing board through deliberation and determination/outcome of each case, and is responsible to completing and filing critical paperwork with the Office of the Dean of Students.
- 13.16. Non-Attorney Advocate- A person selected by the Responding Party (responding student) to assist them in navigating the Student Conduct Process. A student may have only one advocate; a legal attorney may be used as an advocate. The advocate may advise, assist, and accompany the Responding Party in the preparation for any meetings or hearings and may fully participate in such procedures. Advocates may not be witnesses in the matter at hand, and they may not provide direct information or testimony at any point in the process. The student is responsible for the behavior and actions of their advisor.
- 13.17. Attorney - Legal representation serving on behalf of the Responding Party (responding student). An attorney may serve as an advisor during the Student Conduct Process. The attorney, serving in the advisor capacity, may advise, assist, and accompany the Responding Party in the preparation for any meetings or hearings and may fully participate in such procedures. Advisors may not be witnesses in the matter at hand, and they may not provide direct information or testimony at any point in the process. The student is responsible for the behavior and actions of their advisor.

13.18. Preponderance of Evidence- Standard of proof used by the hearing officer.

Preponderance of evidence means that the statements and information presented in the matter must indicate that it is more likely than not that the Responding Party a violated the Student Code of Conduct.

13.19. Good Standing - A student is considered to be “not in good standing” with the

University if they have been a pending conduct matter, have not completed sanctions associated with their student conduct case or have been expelled from the University.

Appendix A

Interpersonal Violence and Sexual Misconduct

In order to comply with Title IX of the Higher Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.* (“Title IX”)) and the Violence Against Women Reauthorization Act of 2013, reports of conduct involving alleged violations of section 11.16 (Sexual Misconduct) of the Code are subject to specialized and/or additional processes and procedures. These processes and procedures are designed to provide a prompt and equitable resolution for both the reporting party and the Respondent.

General Provisions for Processing Reports of Interpersonal Violence or Sexual Misconduct

1. Reports of misconduct involving allegations of Interpersonal Violence or Sexual Misconduct pursuant to section 11.6 of the Code may be made directly to the Title IX Coordinator, University Police, Local Law Enforcement, or Responsible Employees. Upon receiving notification of allegations, the receiving office shall immediately notify the other offices of the report to ensure Clery and Title IX obligations are met. The Title IX Coordinator or designee will provide both the reporting party and the Respondent with resources and notification of their rights.
2. Reports will be reviewed by the Office of Title IX to determine whether the alleged actions warrant a Title IX investigation and/or whether the reporting party’s request for confidentiality can be maintained. If the report falls within Title IX, the procedures pursuant to Policy 900.4.1.5 Appendix A will be pursued. If the report does not fall within Title IX, the Office of Title IX will inform the Office of the Dean of Students, who will then promptly, thoroughly, and impartially investigate and resolve the matter consistent with the Student Code of Conduct (Code) disciplinary process.
3. If Code charges are brought against the Respondent, the Office of the Dean of Students will notify both the reporting party and the Respondent of their rights under the Code.
4. It is not the practice of the University to pursue disciplinary action against a reporting party or witness for his or her improper use of alcohol or drugs provided that such student is acting in good faith as a reporting party or witness to the alleged Interpersonal Violence or Sexual Misconduct.

Appendix B

Student Organizations

Registered student organizations must comply with federal, state, and local laws, as well as University rules, policies and procedures. In addition, individual members representing the student organization and the University are expected to abide by federal, state, and local laws, as well as University rules, policies and procedures on and off campus.

1. General Provisions for Processing Reports of Student Organization Misconduct

- a. Reports of misconduct involving student organizations may be made directly to the Office of the Dean of Students, pursuant to reporting allegations in the Code, section B. Upon receiving notification of allegations, the Office of the Dean of Students shall immediately notify the other offices, such as the Office of Student Engagement and Leadership and Campus Police of the report. The Office of the Dean of Students or designee will provide the Chapter President with notification of the allegations and their rights.
- b. Reports will be reviewed by the Office of the Dean of Students for a preliminary investigation of the allegation(s) included in the report. In the absence of sufficient substantive evidence, an allegation will be dismissed. If the report includes sufficient substantive evidence, the allegation(s) will be investigated by the Office of the Dean of Students, pursuant to the Student Code of Conduct (Code) disciplinary process.
- c. A Student Organization may be accused of a violation of the Code regardless of whether a member of the Organization is individually accused of a violation arising from the same incident(s).
- d. Student Organization may be charged with a violation of the Code when:
 - i. One or more of its officers or authorized representatives acting in the scope of their organizational capacities commit(s) the violation;
 - ii. One or more of its members commit(s) the violation after the action that constitutes the violation was approved by majority vote of the organization present and voting members;
 - iii. One or more members of a committee of the organization commit(s) the violation while acting in the scope of the committee's assignment. This means that student organizations shall be responsible for the conduct and actions of each member of

the organization while acting in the capacity of a member(s) or while attending or participating in any activity of the organization;

- iv. A member of an organization acting with apparent authority of the organization commits the violation;
 - v. One or more members of an organization or its officers permit, encourage, aid, or assist any of its members in committing a violation;
 - vi. One or more members of an organization or its officers, under circumstances where such persons knew or should have known that an action constituting a violation was occurring or about to occur, fail(s) to prevent that action; or
 - vii. One or more members of an organization fail(s) to promptly report to appropriate University or other authorities their knowledge or any reasonable information about a violation.
- e. The president or equivalent officer of the Student Organization shall represent the Organization unless they petition the Dean of Students or designee to substitute another member to represent the Organization. All disciplinary correspondence will be sent to the president or equivalent officer via ECSU email.

2. Rights of a Student Organization

Registered Student Organizations have a right to expect that all disciplinary proceedings will be handled fairly. ECSU grants registered student organizations the following rights in the conduct process:

- a. to have their complaint heard by unbiased individuals;
- b. to be represented by an Attorney or Non-Attorney Advocate throughout the entire Student Conduct Process, provided written Notice of Representation, a signed FERPA authorization, and Certification forms; when scheduling meetings and hearings, the University will make reasonable efforts to accommodate an Attorney or Non-Attorney Advocate, however the necessary participants (i.e. Designated administrator, board members and the Respondent) will take priority;
- c. to have written notice of the charges placed against them and the time and place of any meeting or hearing. Notice will be sent through email to the president or designee, organization's advisor on record and national official's established email account;

- d. to request a copy of information to be used against them at hearings. This information will be provided to the organization in a redacted format at least three business days prior to a hearing;
- e. to hear and respond to all information presented against them;
- f. to present information and witnesses on their behalf. Character statements and witness statements should be submitted in writing before the hearing. Character statements will not be considered when determining responsibility for a violation;
- g. to appeal the outcome of any hearing no later than two business days after notification of the decision. Holidays and University breaks will be the only exception.
- h. Organizations will receive written notification of the results of the hearing within five business days after the hearing

3. Interim Measures for Student Organizations

- a. In some circumstances, it may become necessary to impose interim measure(s) against an organization while a conduct matter is being resolved. Interim measures will be imposed to ensure the continued safety and well-being of members of the University community or preservation of the University's interest.
- b. An official letter will be sent to organization's president or designee, organization, advisor, and national official of the organization by the Office of the Dean of Students. The following interim actions may be imposed:
 - i. Temporary Cease and Desist: the organization must cease normal activity and desist any congregating of membership or organizational function. Specifically, the organization must immediately stop operating as organization, including holding meetings, sponsoring activities, wearing paraphernalia, or representing the organization in any way until further notice from the Office of the Dean of Students.
 - ii. Suspension of the New Member Intake process: All meetings and activities associated with New Member Intake process must cease. Chapter officers and all members are restricted from communicating with the New Members.
 - iii. Restrictions: the organization may be restricted from participating in university or student life activities for a period of time (examples: intramurals, Homecoming)

- c. An organization may appeal pursuant to the Student Code of Conduct (Code), section 13.2c.

4. Sanctions for Student Organizational Misconduct

One or more of the following sanctions may be imposed on a Student Organization found responsible for a violation of the Code:

- a. **Disciplinary Warning-** A disciplinary written reprimand serves as notice that continuation or repetition of prohibited conduct may result in more serious disciplinary actions.
- b. **Disciplinary Probation-** the organization is deemed not in good standing with the University for a specified period of time, a minimum of one semester, during which the organization will not be allowed to host, sponsor, or conduct any social activities acting alone or in conjunction with another organization or entity (including but not limited to parties, social gatherings, events with social components, etc.), unless specified. The organization may be allowed to host educational and awareness events and activities.
- c. **Suspension-** the organization will not be recognized as an official student organization and will not be permitted to sponsor activities or participate in University sponsored activities as an organization. During the suspension period, the members of the organization will not be allowed to wear the organization's paraphernalia.
- d. **Campus Ban-** the organization will be permanently revoke recognition of an organization as an official student organization. In such case, the organization will be temporarily or permanently barred from the University.
- e. **Additional Sanctions-** restriction of all or any privileges or benefits of registered student organizations, monetary fines, withholding, or withdrawal of student activities monies, restitution for damages, and other appropriate sanctions as deemed necessary and appropriate to address the misconduct at issue.

5. Appeals

- a. An organization may appeal pursuant to the Student Code of Conduct (Code), section 10.