



## **STUDENT ETHICAL STANDARDS**

By enrolling in Bennett College, a student signifies her willingness and agreement to live in accordance with the following minimal ethical standards:

- 1) Each student shall be honest in all behavior and conduct with the College. Any form of cheating, plagiarism, falsification of records, or the deliberate giving of false information to College officials is a breach of the ethical standards of the College.
- 2) Each student shall respect the personal rights, safety, and health of others. There will be no emotional, verbal or physical abuse of any individual at Bennett College. No student shall disrupt or disturb the study of others, nor should there be any disruption of College activities.
- 3) Each student shall respect personal property. No student shall damage or misuse the property belonging to others, and there will be no damage or misuse of College property or facilities.
- 4) Each student shall obey and honor specific standards of the College. Each student shall refrain from the possession, use, or distribution of any form of alcoholic beverage and/or controlled drug or substance while on the property of the College.
- 5) Each student shall respond to administrative or faculty directives.
- 6) Each student shall satisfy her financial obligation to the College.

Violations of ethical standards found to be Student Code of Conduct infractions may result in disciplinary action. Such action may take the form of any of a series of sanctions, including, but not limited to, reprimand, probation, or in more extreme cases, suspension or expulsion from the College. Suspension or any disciplinary action short of expulsion is not considered punishment, but part of the educational process. A student may be suspended for an indefinite period of time, depending upon the offense. Expulsion is permanent.

The Student Conduct Officer serves to promote a safe and secure learning community of civility and integrity, while treating each student with dignity and respect.

## **GOALS OF THE STUDENT CONDUCT PROCESS**

- 1) To hold students accountable for their behaviors with fairness and dignity to all involved parties.
- 2) To protect the welfare of the Bennett College community and its constituents.
- 3) To educate students about the expectations Bennett College has regarding the standards of behavior all students are to maintain.
- 4) To instruct, educate, and advise students to cease offending behaviors and obtain assurances that these behaviors will not be repeated.
- 5) To provide developmental learning experiences that give students the opportunity for insight and reflection about why they are at Bennett College and how to best accomplish their educational and personal goals.
- 6) To educate students about what it means to be a part of a community and to strive to cultivate an atmosphere of respect and understanding among the

- diverse sisterhood of the Bennett College Community.
- 7) To fairly, effectively, and efficiently administer the Student Code of Conduct.

## **BENNETT COLLEGE STUDENT CODE OF CONDUCT**

### **1) General Provisions**

- a. **Introduction.** This Code seeks to apply the principle of responsible freedom as it guides the conduct of Bennett College students. Responsible freedom is exercised when actions are directed by ethical standards. Moreover, the Code operates as a vehicle for informing students about their rights and responsibilities while reinforcing the development of ethical standards that make responsible freedom possible.
- b. **Scope.** Bennett College's jurisdiction regarding student conduct is generally limited to conduct of any Bennett College student that occurs on Bennett College premises or off-campus when in connection with an activity or program recognized by Bennett College. In addition, the College reserves the right to impose discipline based on any student conduct, regardless of location, when that conduct may adversely affect the College community or its constituent programs. The College further reserves the right to restrict contact with specified individuals when facts and circumstances dictate such action. The right of all students to seek knowledge, debate ideas, form opinions, and freely express their ideas is fully recognized by Bennett College. This Student Code of Conduct applies to student conduct and will not be used to impose discipline for the lawful expression of ideas. Specific restrictions on time and place of meetings and assemblies are found in the Student Handbook.
- c. The processes for adjudicating violations of local, state and federal law and violations of the Student Code of Conduct are separate and may be pursued independently and/or simultaneously.
- d. **Authority.**
- i) Authority for student discipline ultimately rests with the Board of Trustees, then delegated to the President, who delegates this authority to the Vice President for Enrollment Management and Student Experience, who delegates authority to the Dean of Student Experience for potential non-academic violations. The Dean of Student Experience delegates this authority to the Student Conduct Officer. Under the direction of the Dean of Student Experience, the responsibility for implementing the student conduct system rests with the Student Conduct Officer.

The Dean of Student Experience or Student Conduct Officer may take direct jurisdiction of any case due to the inability or disqualification of the appointed hearing officer to serve, or when it is determined by the immediate circumstances that taking direct jurisdiction is in the best interest of the College. The Dean of Student Experience has the authority to designate individuals as hearing or appellate officers, as defined in Section 3) c) iv) when appropriate.

- ii) The Dean of Student Experience also has the authority to notify the person listed as a student's emergency contact (or other appropriate person) in

case of an emergency involving that student.

- iii) All hearing bodies have the authority to consult with other appropriate College officials in order to resolve a Student Code of Conduct case effectively.
  - iv) Decisions of the Student Conduct Board(s) are considered recommendations to the Student Conduct Officer (See 1) d) vii. below).
  - v) Decisions of administrative hearing panels are recommendations to the Student Conduct Officer, or the designee of the Dean of Student Experience. (See 1) d) vii. below).
  - vi) All recommended student conduct decisions must be approved in writing by the appropriate authority (or designee) and only then will the decision be communicated to the student (see 1) d) iii.-vi. above). The appropriate authority may adopt or amend the recommended decision, or order a new hearing. Prior to amending or ordering a new hearing, the authority will confer with the appropriate hearing body. Upon approval, the recommended decision becomes a first-level student conduct action.
  - vii) Decisions of all other hearing bodies constitute first-level student conduct actions.
  - viii) If a first-level student conduct action is not appealed as provided herein, that decision becomes final agency action.
- e. Appellate officers are listed in *Section 4), Appeals*. Appellate decisions are considered recommendations to the Dean of Student Experience and become final agency action upon approval by the Dean of Student Experience.
- f. **Definitions.**
- i) *Advisor*. The term "advisor" means any one person chosen by the respondent, complainant, or any witness to assist throughout the student conduct process, unless service in this capacity would unreasonably conflict with the fair administration of the student conduct process as determined by the Student Conduct Officer (or designee).
  - ii) *Class day*. The term "class day" means any day that either classes or final exams are scheduled.
  - iii) The term "complainant" means the student, employee, faculty member, or other member of the Bennett College Community who has alleged a violation of the Code of Conduct.
  - iv) *Hearing*. The term "hearing" means an informal or formal proceeding, conducted by a hearing body in accordance with the Student Code of Conduct, for decided alleged violations of the Student Code of Conduct and related sanctions.
  - v) *Hearing Body*. The term "hearing body" means any person or persons authorized by the Dean of Student Experience or Student Conduct Officer or as provided for in this Student Code of Conduct to conduct hearings to make recommended findings regarding whether a student has violated the Student Code of Conduct and to recommend sanctions.

- vi) *On-Campus*. The term "on-campus" means all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, including adjacent streets, sidewalks, and parking lots. See also subsection xi), "College," below.
- vii) *Opposing party*. The term "opposing party" means the member of the Bennett College Community who is adverse to another member in the course of a hearing of alleged violations of the Code of Conduct. For example, in the case of the complainant, the respondent is the "opposing party," and vice versa.
- viii) *Policy*. The term "policy" means the written statements of the College as found in, but not limited to, the Student Code of Conduct, the General Bulletin, the Online Student Handbook, the Directory of Classes, the Guide to Residence Living and other written requirements of departments, organizations, and clubs. All College policies must have prior approval of the Board of Trustees.
- ix) *Preponderance of the Evidence*. "Preponderance of the evidence" means that the evidence, as a whole, shows that the fact sought to be proved is more probable than not. This standard shall be used in adjudicating all student conduct cases within this Student Code of Conduct.
- x) *Reasonable person standard*. The "reasonable person standard" is a concept that utilizes the hypothetical person, referred to as the reasonable/prudent individual, who exercises care, skill, and judgment in conduct that society requires of its members for the protection of their own and of others' interests. The "reasonable person" is not an average person or a typical person. Instead, the "reasonable person" is a composite of a relevant community's judgment as to how a typical member of said community should behave in situations that might pose a threat of harm (through action or inaction) to the public. The standard also holds that each person owes a duty to behave as a reasonable person would under the same or similar circumstances.
- xi) *Respondent*. The term "respondent" means any student who has been formally charged with an alleged violation of the Student Code of Conduct.
- xii) *Student*. The term "student" means any person who is admitted to and enrolled in any credit-bearing course or program in any school or division of Bennett College, any person who is admitted to the College and is present on campus for the purpose of being enrolled in any College course or program, including Orientation, or any person who has been enrolled in any credit-bearing course or program at the College and continues to be associated with the College, because the student has not completed the course or program in which the student was enrolled. In cases of dual enrollment, jurisdiction over a student's conduct will be determined in consultation with appropriate officials at the student's other institution.
- xiii) *Student Advocate*. The term "Student Advocate" means any person provided by the Student Conduct Officer, either through formal appointment or informal referral, to serve as a resource and advisor to the

respondent.

xiv) *College*. The terms "College" and "College properties" mean Bennett College, including the main campus, all property leased, used or controlled by the College, College facilities and College consortia locations. The Student Code of Conduct applies to the College as defined herein.

xv) *College Community*. The term "College Community" includes any person who is a student, faculty member, employee, College official, visitor, contractor, volunteer, or representative of the College.

xvi) *College official*. The term "College official" means any person employed or appointed by the College to perform assigned teaching, research, administrative, professional or other responsibilities.

2) **Violations**. The following violations, or the aiding, abetting, conspiring, soliciting, or inciting of, or attempting to commit these violations, constitute violations of the Student Code of Conduct:

a. *Sexual Misconduct*

i) ***For rules, policies and procedures that apply to sexual misconduct, please see the College's Sexual and Relationship Misconduct Policy available in the Student Handbook.***

b. *Endangerment*

i) Physical violence towards another person or group.

ii) Action(s) that endanger the health, safety, or well-being of another person or group.

iii) Interference with the freedom of another person to move about in a lawful manner.

c. *Harassment*

i) Action(s) or statement(s) that threaten, harm, or intimidate another.

ii) Acts that invade the privacy of another person.

iii) Bullying behavior, defined as the systematic and chronic infliction of physical hurt or psychological distress by teasing, social exclusion, threat, intimidation, stalking, physical violence, theft, harassment, or destruction of property.

iv) Stalking, which includes following or contacting another person repeatedly with the intent to cause that person fear or discomfort.

d. *Hazing*. Hazing is defined as any group or individual action or activity that endangers the mental or physical health or safety or which may demean, disgrace, or degrade any person, regardless of location, intent, or consent of participant(s). Although hazing is generally related to a person's initiation or admission into, or affiliation with, a group or organization, it is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the organization, for a charge of hazing to be upheld. The actions of active,

associated, new, and/or prospective members of an organization may be considered hazing. Hazing includes, but is not limited to:

- i) Unreasonable interference with a student's academic performance.
  - ii) Forced or coerced consumption of food, alcohol, drugs, or any other substance.
  - iii) Forced or coerced wearing of apparel, which is conspicuous and/or inappropriate.
  - iv) Forced or coerced exclusion from social contact.
  - v) Branding.
  - vi) Intentional inducement of fatigue or discomfort (including but not limited to acts that stem from forced physical activity, such as calisthenics and deprivation of sleep).
  - vii) Deprivation of food.
  - viii) Beating, whipping, or paddling in any form.
  - ix) Line-ups and berating.
  - x) Physical and/or psychological shocks.
  - xi) Personal servitude.
  - xii) Kidnapping or abandonment.
  - xiii) Unreasonable exposure to the cold, rain, snow, or other uncomfortable weather.
  - xiv) Any activity that would be viewed by a reasonable person as subjecting any person to embarrassment, degradation or humiliation.
  - xv) Expectation of participation in activities that are unlawful, lewd or in violation of College policy.
- e. *Retaliation for Reporting Hazing.* Retaliating against any individual who reported, or was known to be considering reporting, a hazing violation or suspected hazing violation to College or law enforcement officials. Please refer to the Bennett College Hazing Statement and Section 1006.63, North Carolina Statutes, for more details.
- f. *Weapons.*
- i) On-campus possession or use of firearms, antique firearms, explosives, destructive devices, or other weapons or dangerous articles or substances, including but not limited to non-lethal weapons such as pellet guns, bb guns, paintball markers, slingshots, crossbows, stun guns, tasers, metallic knuckles, archery equipment, swords, sword canes, ornamental or decorative swords/daggers/knives, or any dangerous chemical or biological agent.
  - ii) Off-campus, unlawful or unauthorized possession or use of firearms, explosives, or other weapons or dangerous articles or substances.
  - iii) These prohibitions against possession of weapons do not apply to any law enforcement officer who is a student or to any student ROTC member

acting under the supervision of an ROTC unit in a manner proscribed by military regulations of the United States Government.

g. *Fire and Safety.*

- i) Inappropriate activation of any emergency warning equipment or the false reporting of any emergency.
- ii) Unlawful possession of, removal of, damage to, or tampering with fire safety or other emergency warning equipment.
- iii) Failure to evacuate a College building or facility within a reasonable amount of time after a fire alarm is sounded.
- iv) Arson, or the setting of any unauthorized fire in or on College property.

h. *Alcohol, Controlled Substances, and Illegal Drugs.*

- i) Unlawful possession or use of controlled substances, including prescription medicine belonging to another individual.
- ii) Possession or use of illegal drugs.
- iii) Purchase, distribution, delivery, or sale of illegal drugs or controlled substances.
- iv) Possession or use of drug paraphernalia.
- v) Possession or consumption of alcohol on campus.
- vi) Possession or consumption of alcohol when under the age of 21 as specified by the State of North Carolina.
- vii) Providing alcoholic beverages to an individual who is under the age of 21 as specified by the State of North Carolina.
- viii) Driving while under the influence of alcohol or any controlled substances or illegal drugs.
- ix) Intoxicated behavior.
- x) *Open house party.* An open house party is defined as an event at a residence where hosts, owners, or others in control of the event fail to take reasonable steps to ensure legal compliance, reduce the risk of harm, and ensure the safety of guests (including, but not limited to, removing those in violation or requesting law enforcement to assist) if alcoholic beverages are known to have been consumed at the residence by person(s) under the age of 21 and/or illegal drugs or controlled substances are unlawfully possessed, distributed or used.

i. *Obstruction.*

- i) Failure to comply with a lawful order of a College official or any non-College law enforcement official.
- ii) Providing false information to a College official or to a non-College law enforcement official, including student conduct hearing bodies.
- iii) Acts that impair, interfere with, or obstruct the orderly conduct, processes, and functions of the College or the rights of other members of

the College community. This includes acts that occur both inside and outside of the classroom setting and may involve use of electronic or cellular equipment. This also includes behavior off-campus during a College sanctioned event or activity or an event where the student serves as a representative of the College (including, but not limited to, an organizational leadership role).

- iv) Acts that disrupt the College student conduct process, including attempting to coerce or wrongfully influence a person regarding their participation in any student conduct proceeding.
- j. *Unauthorized solicitation.* Solicitation for money, goods or services without the express authorization of the College.
- k. *Failure to provide identification or misuse of identification.*
  - i) Permitting another person to use his or her student identification.
  - ii) Inappropriate use of another person's student identification.
  - iii) Impersonation of someone else.
  - iv) Misrepresenting the authority to act on behalf of another or the College.
  - v) Forgery, alteration, or misuse of identification, documents, records, keys, or access codes.
  - vi) Manufacture, distribution, delivery, sale, purchase, possession, or use of false identification.
- l. *Property.*
  - i) *Damage:* Intentionally, recklessly or negligently causing damage to public or private property.
  - ii) *Theft:* Without authorization, removing or using the property or services of another person or of the College, with the intent to permanently deprive the person or College of the property.
  - iii) *Misappropriation:* Without authorization temporarily removing or using the property or services of another person or the College, but without the intent to permanently deprive the person or the College of the property.
  - iv) Receiving, possessing, selling, or purchasing of property or services that are known or reasonably should have been known to have been stolen.
  - v) Entering or using the property or facilities of the College or of another person without the proper consent or authorization.
- m. *Computers.*
  - i) Unauthorized access or entry into a computer, computer system, network, software, or data.
  - ii) Unauthorized alteration of computer equipment, software, network, or data.
  - iii) Unauthorized downloading, copying, or distribution of computer software or data.

- iv) Any other act that violates North Carolina law or the Bennett College policies for use of campus computer and network resources.
- n. *Recording of Images without Consent.* Using electronic or other means to make a video or photographic record of any person where there is a reasonable expectation of privacy and without the person's consent. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and restrooms. The sharing and/or distributing of such unauthorized records by any means is also prohibited.
- o. *Recording of Oral Communications without Consent.* Using any device to record the oral communications of another person when that person has a reasonable expectation of privacy and has not consented to the recording.
- p. *Gambling.* Engaging in or offering games of chance for money or other gain in violation of the laws of the State of North Carolina.
- q. *Other Violations.*
  - i) Violation of Federal or State law or local ordinance.
  - ii) Aiding, abetting, conspiring, soliciting, inciting, or attempting to commit any violation of Federal law, State law, or local ordinance.
  - iii) Violation of any other College regulation or policy as described in the Bennett College General Bulletin, Student Handbook, College Housing contract, The Guide to Residence Living, other Campus Life publications, the Bennett College Online Student Policy Handbook, Student Activities and Organizational Policies (Student Organizational Manual or other College policies and Student Organization Advisor's Manual), or other College policies directly related to departments, organizations or clubs.
  - iv) Violation of the Academic Honor Policy when the student is not currently enrolled in the related course or when the incident cannot otherwise be processed under the Academic Honor Policy. Refer to the Academic Honor Policy for violations and descriptions.

### 3) Conduct Hearings

- a. *Applicability.* The following rules and procedures apply in hearings related to alleged violations of the Bennett College Student Code of Conduct. For rules and procedures that apply to alleged violations of Bennett College's Sexual and Relationship Misconduct Policy, please review that policy.
- b. *Notice.* At least seven days before the hearing, both the complainant and respondent will both be given written notice of the following issues related to the hearing.
  - i. The alleged facts constituting the alleged violation of the Student Code of Conduct.
  - ii. The specific provision of the Student Code of Conduct that is alleged to have been violated.
  - iii. An invitation to attend an information session, during which the student may view all materials related to the case, receive instruction regarding the student conduct process and the student's rights, and confirm the forum in which the

case will be heard.

- iv. The time, date and place of the hearing.
  - v. The names of the individuals who will serve on the hearing body.
  - vi. Parent(s) of any student under the age of eighteen at the time of the alleged violation may also be notified of pending charges.
  - vii. The contact information on file with the College Registrar's Office will be used for all student conduct notices sent to the respondent.
- c. *Hearing allegations.* A student may formally allege a violation of the Code of Conduct in any of the following ways:
- i. By providing a signed written statement to the Student Conduct Officer. All information will then be reviewed by the Student Conduct Officer to determine whether the Student Code of Conduct allegations will be filed or if an alternative action, including mediation, is appropriate. Incident Reports should be submitted to the Student Conduct Officer from the Director of Campus Life and/or either Campus Safety administrator in a timely manner.
  - ii. By filing a report with Campus Safety or requesting that a report from another law enforcement agency be sent to the Campus Safety. All such reports that indicate a potential Student Code of Conduct violation will be forwarded by Campus Safety to the Student Conduct Officer in a timely manner.
- d. *Evidence.* Both the respondent and complainant will be given an opportunity to present documents and evidence, including witness testimony and/or statements, during a fair and impartial hearing. (A more complete description of the procedures utilized to implement these rights is found in *Section (h), Procedures.*)
- e. *Students' Rights.* The Complainant and Respondent will each have the following rights during a hearing conducted under the Code of Conduct:
- a. To have her unrelated past behavior excluded from the hearing. The hearing body will decide if such information is unrelated.
  - b. To attend an information session, during which time the student can view all materials related to the case and receive instruction regarding the hearing and disciplinary process and their rights therein. The complainant and respondent will attend this information separately.
  - c. To have an advisor accompany the student when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.
  - d. To question the opposing party and witnesses during the hearing. Questions asked by one opposing party to another will first be posed to the hearing body, and depending on the case, the hearing body will pose the questions to the opposing party.

- e. To request to be present throughout the entire hearing, or portions thereof. This option will be considered by the hearing body, and its decision shall be final and not subject to appeal.
- f. To be simultaneously notified of the status and outcome of the Student Code of Conduct process at the first hearing level and final outcome to the extent that the outcome directly relates to the complainant and the notification does not violate the privacy rights of the respondent.
- g. To appeal any first-level decision, provided that one or more of the reasons for appeal listed in *Section 4)(d)* is relevant to the case. On appeal, the appealing party must demonstrate either (1) a clear error substantially affecting the outcome of the hearing, or (2) a violation of the hearing procedures that substantially affected the outcome of the hearing. The appellate body varies depending on the initial hearing body and is outlined in Section 4), Appeals. All appellate decisions are considered recommended decisions to the Dean of Student Experience (or designee).
- h. *Complainants' rights.* For the protection of the complainant during a hearing alleging violations of the Student Code of Conduct, and to ensure a fair and impartial hearing, the complainant will have the following additional rights in connection with the hearing:
  - i. To submit an impact statement to the Student Conduct Officer. This information will be used only in the sanctioning phase of deliberations, if the respondent is found responsible for the charge(s). The respondent may request to view the impact statement. The request will be considered by the Student Conduct Officer in consultation with the complainant.
  - ii. To request to testify in a separate room from the respondent so long as affording this right will not unduly compromise the respondent's right to due process.
- i. *Procedures.* The Student Conduct Officer is charged with implementing the Student Code of Conduct in ways that are congruent with the Bennett College philosophy and ethical standards and with all applicable laws and regulations. The procedures implemented by this office will be consistent with all appropriate due process rights accorded to students in College Student Code of Conduct proceedings.
- j. *Interim Measures.*
  - (1) The Student Conduct Officer may place a conduct hold on the records and registration of any student who fails to address the Student Code of Conduct charges in a timely manner. Any pending conduct matters must be resolved prior to a student's graduation, the release of transcripts, transfer of credits to another institution, or re-enrollment at the College.
  - (2) *Investigation.* The Student Conduct Officer will investigate a complaint alleging a violation of the Student Code of Conduct. Investigations

should be completed as promptly as possible under the circumstances. During the investigation, both the complainant and the respondent will be allowed to do all of the following:

- i. Bring an advisor of the student's choosing to any meeting with a hearing officer.
  - ii. Meet with the hearing officer and tell the student's story.
  - iii. Submit documents and other relevant evidence to the hearing officer.
  - iv. Identify witnesses who may have information relevant to the complaint.
- k. *Hearing Bodies and Authorities.* Any specific procedures used by hearing bodies will comply with the requirements of this Student Code of Conduct.
- (1) The Student Conduct Officer (and/or their designee(s)) may conduct both informal and formal hearings.
  - (2) A hearing officer designated by the Dean of Student Experience may conduct both informal and formal hearings.
  - (3) The Student Conduct Board may conduct both informal and formal hearings. Panels are composed of five Student Conduct Board members selected by the Student Conduct Officer. In times of limited student availability or when conflicts are identified, hearings may proceed with fewer than five (5), but no fewer than three (3), Student Conduct Board members.
  - (4) An Administrative Hearing Panel may conduct formal hearings. Panels are composed of one (1) faculty member and one (1) staff member—both designated by the Dean of Student Experience (or designee)—and two (2) Student Conduct Board members. In times of limited student availability, panels may proceed with one (1) Student Conduct Board member with approval from the Student Conduct Officer and consent of the respondent and complainant.
  - (5) Residence Life hearing officers (Director, Residence Director or designees) may conduct both informal and formal hearings regarding cases arising in Residence Life in which the respondent is a resident of Campus Life.
    - (a) Informal hearings for Residence Life procedures violations may be conducted by the Chief Residence Life Officer.
    - (b) Formal hearings for Residence Hall violations must follow the standard format for student conduct hearings.
- l. *Types of Hearings.* Two distinct types of hearings are provided for by the Student Code of Conduct. Formal hearings are held when cases involve disputed questions of fact or serious alleged violations of the Student Code of Conduct (i.e., violations that could lead to separation of the respondent from the College). Informal hearings are held when cases involve few or no disputed questions of fact and possible sanctions do not include separation from the

College.

- (1) Both formal and informal hearings will follow these guidelines:
  - (a) All hearings will be fair and impartial.
  - (b) All hearings will use a preponderance of the evidence standard when assessing whether the evidence shows a violation of the Student Code of Conduct.
  - (c) All hearings will use the reasonable person standard when assessing whether the respondent's conduct, while not determined to constitute an intentional or knowing violation of the Student Code of Conduct, nevertheless constitutes a violation because the respondent failed to act as a reasonable person would under the circumstances.
  - (d) Either the complainant or respondent may challenge the impartiality of any member of a hearing body to the Student Conduct Officer or the hearing body. Decisions on challenges shall be final and not subject to appeal.
  - (e) A respondent will have the opportunity to present evidence on his or her behalf, including presenting witnesses, if available, and/or signed, written statements from witnesses, and other documentary evidence. Witness testimony is not required and the inability of the respondent to question a witness who has provided a written statement is not a violation of the due process rights of the respondent, as the respondent has the opportunity to review and respond to the written statement and may offer evidence to rebut the witness statement and other evidence presented at the hearing. Witness statements are entitled to be given the same weight by the hearing body as live witness testimony. Witness statements need not be sworn or in affidavit form but must be confirmed as authentic by the hearing officer.
  - (f) The respondent, complainant, and any witnesses may be accompanied during the hearing by an advisor. Students are required to address the hearing body in person, on their own behalf, although they may consult with their advisor during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the student unless expressly authorized to do so by the hearing body. The respondent, complainant, and any witnesses shall provide the advisor's name in writing to the Student Conduct Officer two class days prior to the hearing. The advisor may not serve as a witness.
  - (g) A student may choose not to answer any and all questions posed by a hearing body.
  - (h) The burden of proof at a first-level hearing always rests with the College. The standard of proof will be the preponderance of the evidence, meaning that the evidence, as a whole, shows that the

fact sought to be proved is more probable than not.

- (i) The legal rules of evidence do not apply to Student Code of Conduct proceedings.
  - (j) Witnesses.
    - (i) Appropriate witnesses will be called by the College to all formal hearings. Those witnesses who appear may be cross-examined by the respondent or complainant. If called witnesses do not appear, their written or taped statements may be considered by the hearing body. In some cases, student witnesses who are reasonably available but fail to appear may be charged with a violation of the Student Code of Conduct.
    - (ii) Appropriate witnesses may also be called by the respondent to all hearings, provided they are reasonably available and do not disrupt or delay the hearing. In the event a witness is not reasonably available, or the witness's presence may disrupt the hearing, a written statement from the witness may be substituted. Witness statements need not be sworn or in affidavit form.
  - (k) Hearings may be held in the respondent's absence if the respondent fails to appear after proper notice or fails to cooperate in the Student Code of Conduct process.
  - (l) Prior records of student conduct action and witness/complainant impact statements are considered by the hearing body only in the sanctioning phase of deliberations.
  - (m) The hearing body's determination of "responsible" or "not responsible" will be based solely on the information presented at the hearing. However, when additional information that affects this determination is gathered outside the hearing, it may be used provided it is shared with the respondent and the student has an opportunity to respond to the information. In cases involving multiple respondents, information provided at one hearing may be used as evidence in the related case(s).
  - (n) To request the cancellation of a previously scheduled formal hearing, the respondent must submit a written statement to the Student Conduct Officer (5) five class days prior to the hearing date. At the discretion of the Student Conduct Officer (or designee), the hearing may be rescheduled or conducted in the respondent's absence.
  - (o) All first-level recommended decisions will be communicated in writing to the respondent and will include the findings of fact, determination of responsibility, sanctions (if applicable), and notice of appellate rights.
- (2) Formal hearings will follow these procedures:
- (a) The hearing body will call appropriate witnesses and/or obtain

witness statements, reports, or other information in support of the allegations.

- (b) The hearing will be held no sooner than (7) seven class days after notice is provided to the complainant and respondent. The complainant may submit a written request to hold the hearing sooner than seven days after notice is provided. The request will be considered and acted upon by the Student Conduct Officer and will only be granted when the Student Conduct Officer determines there are compelling reasons to hold the hearing on an expedited timeline.
  - (c) The hearing will be recorded in audio and/or video form. This recording will serve as the official record of the proceedings. See *Section 5) Records* below.
  - (d) A formal decision letter will be sent to the student within seven class days after the conclusion of the hearing. This time limit may be extended if additional consideration of evidence and deliberation is required. In such a case, the complainant and respondent will be notified of the extension of time to a date certain by the Hearing Officer within seven class days after the conclusion of the hearing.
  - (e) The following order of presentation is recommended for use in formal hearings. The hearing body may change the order if deemed appropriate, including modifications in accordance with the Student Code of Conduct Statement of Complainant's Rights.
    - (i) Presentation of formal charges.
    - (ii) Opening statement by the College.
    - (iii) Opening statement of the complainant, followed by the opening statement of the respondent. Either party may waive the right to provide an opening statement.
    - (iv) Presentation of evidence and witnesses by the College, followed by questioning of those witnesses by the hearing body and the respondent. Witnesses are then dismissed.
    - (v) Presentation of evidence and witnesses by the respondent, followed by questioning of those witnesses by the complainant and the hearing body. Witnesses are then dismissed.
    - (vi) Questions directed to the respondent by the hearing body.
    - (vii) Closing statement by the College.
    - (viii) Closing statement of the complainant, followed by the closing statement of the respondent. Either party may waive the right to provide a closing statement.
- (3) Informal hearings will follow the following guidelines:
- (a) The College may or may not call witnesses to support the

- allegations, although the hearing body may gather any additional information needed, including calling witnesses. The respondent will be informed of any additional information gathered by the hearing body. The respondent may call witnesses and present evidence.
- (b) The hearing will be scheduled at the convenience of both the respondent and the hearing body.
  - (c) Brief written decisions (including findings of fact) will serve as records of informal hearings and will be sent to both the complainant and respondent within (7) seven class days of the hearing body's final meeting with the respondent. This time limit may be extended if additional consideration of evidence and deliberations are required.
- m. *Choice of Hearing Type and Hearing Body.* The respondent may request both the hearing type and the hearing body to adjudicate their case subject to the restrictions stated in Section c) iii., above. Further restrictions to that choice include:
- (1) When it is determined that a case requires a formal record of proceedings, a formal hearing may be chosen by the Dean of Student Experience or Student Conduct Officer.
  - (2) When two or more individual cases stem from the same incident, those cases should typically be heard by the same hearing body. In such cases, the Student Conduct Officer (or designee) may either pre-select the hearing type and hearing body or consult with the students involved before making the decision.
  - (3) The Dean of Student Experience or Student Conduct Officer (or designee) reserves the right to select the appropriate hearing type and body for other administrative or case-related reasons.
  - (4) During times in which any of the hearing bodies are not officially constituted, the Dean of Student Experience or Student Conduct Officer (or designee) may select an appropriate alternative as the hearing body.
- n. *Sanctions.* In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications), may be imposed upon any individual student found to have violated the Student Code of Conduct. Certain sanctions may result in a financial cost to the student. If a student does not complete a sanction by the required deadline, a hold may be placed on the student's record. Decisions regarding falsification of admission, readmission, or other non-academic information may be forwarded to the appropriate office for review of the application and appropriate action regarding admission.
- (1) Reprimand (written or verbal).
  - (2) Service Hours - Completion of tasks under the supervision of a College department or outside agency.

- (3) Educational Activities - Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, or other educational activities.
- (4) Counseling Assessment - Referral for assessment at a counseling center for alcohol/drug dependence, general mental health, or other counseling issues.
- (5) Restitution - Only in cases involving College property. Restitution must be submitted to the appropriate College department in a manner that is approved by that College department.
- (6) Conduct Probation - A period of time during which any further violations of the Student Code of Conduct may result in more serious sanctions being imposed. Some of the restrictions that may be placed on the student during the probationary period include, but are not limited to:
  - (a) limited participation in College or student activities;
  - (b) limited representation of the College in leadership positions;
  - (c) limited entrance into College residence halls or other areas of campus; or
  - (d) limited contact with specified individual(s).
- (7) Disciplinary Probation - A period of time during which any further violation of the Student Code of Conduct puts the student's status with the College in jeopardy. If the student is found "responsible" for another violation of the Code during the period of Disciplinary Probation, serious consideration will be given to imposing a sanction of Suspension, Dismissal, or Expulsion from the College. Some of the restrictions that may be placed on the student during the probationary period include, but are not limited to:
  - (a) limited participation in College or student activities;
  - (b) limited representation of the College in leadership positions;
  - (c) limited entrance into College residence halls or other areas of campus; or
  - (d) limited contact with specified individual(s).
- (8) Change in campus residence hall assignment.
- (9) Removal (either temporary or permanent) from the campus residence halls. Removal is the maximum sanction for residence hall violations. However, more severe sanctions may be imposed for concurrent Student Code of Conduct Violations.
- (10) Restricted contact with specified individual(s).
- (11) Suspension - Separation from the College for a specified period, not to exceed two years after the effective date of the suspension. This may include restricted access to campus and/or other specified

activities.

- (12) Dismissal - Separation from the College for at least two years and up to seven years. This may include restricted access to campus and/or other specified activities. Readmission is possible, but not guaranteed, and will only be considered when the full period of time sanctioned, after the effective date of the dismissal, has expired. The previously dismissed student must first obtain approval to begin the readmission process from the Dean of Student Experience or designee. Once approval is granted, she must then meet all readmission criteria.
- (13) Expulsion - Separation from the College without the possibility of readmission. This may include restricted access to campus and/or other College-sponsored activities.
- (14) Withholding of diplomas, transcripts, or other records.
- (15) Transcript Notations - a written notation indicating that student conduct action was taken. This sanction may be applied only in cases in which the student has been permanently separated (i.e., expelled) from the College.
- (16) Interim Disciplinary Action - Based upon a student's alleged behavior, the Dean of Student Experience may impose an interim disciplinary action prior to the initiation of formal allegations under the Student Code of Conduct or to a student's hearing on the facts of the case.
  - (a) When the student's conduct affect the safety, health, or general welfare of a student and/or the College community, an interim disciplinary action may also include prohibiting the student from being on College property, attending classes, attending programs and activities, and using College facilities.
  - (b) The interim disciplinary action may include notification of appropriate faculty and staff, and restrictions may include but are not limited to:
    - (i) Suspension;
    - (ii) limited class attendance;
    - (iii) limited use of College facilities;
    - (iv) limited participation in College or student activities;
    - (v) representing of the College on athletic teams or in other leadership positions;
    - (vi) limited entrance into College residence halls or other areas controlled, leased or used by the College; or
    - (vii) limited contact with specific individual(s).
  - (c) A student will receive written notification of any interim disciplinary action.
  - (d) The College or the student may request a meeting to discuss

the restrictions imposed by the interim disciplinary action. The student's request must be in writing to The Dean of Student Experience.

- (e) If a meeting is requested on the interim disciplinary action, a meeting will be scheduled within three class days of the receipt of a written request. The Dean of Student Experience will conduct the meeting. The student will be notified of the outcome of the meeting in writing. The written notification of the outcome is final as to the interim disciplinary action, pending the final results of the Student Code of Conduct process.

#### **4) Appeals**

1) *General rules.* An appeal may be requested on any first-level decision. On appeal, the burden of proof rests with the student to show a clear error that substantially affected the outcome of the hearing has occurred during the first level hearing process. The appellate body varies depending on the initial hearing body and is outlined below. All appellate decisions are considered recommended decisions to the Dean of Student Experience/Title IX (or designee).

i. *Right to Appeal.*

1. In the event that an incident involves a complainant (including but not limited cases involving allegations of endangerment, harassment, stalking and hazing), both the respondent and the complainant have the right to appeal the first-level decision. In the event that both parties submit an appeal request within the stated timeframe, one appellate officer will be assigned, and one appeal hearing will be conducted. Both parties will be provided the opportunity to attend the appeal hearing and the appeal decision outcome will be communicated to both parties.
2. If the respondent appeals, the complainant will be notified of the appeal, will be provided the opportunity to attend the appeal hearing and will be notified of the appeal outcome.
3. If the complainant appeals, the respondent will be notified of the appeal, will be provided the opportunity to attend the appeal hearing and will be notified of the appeal outcome.

ii. *Appellate Officers.*

1. Recommended decisions of Residence Life hearing officers may be appealed to the Dean of Student Experience & Title IX (or designee).
2. Recommended decisions of the Student Conduct Board may be appealed to the Dean of Student Experience & Title IX (or designee).
3. Recommended decisions of Administrative Hearing Panels may be appealed to the Dean of Student Experience & Title IX (or designee).
4. Recommended decisions of the Student Conduct Officer (and designees) may be appealed to the Dean of Student Experience & Title

- IX (or designee).
5. Recommended decisions of other hearing officers appointed by the Dean of Student Experience & Title IX may be appealed to the Vice President of Enrollment Management & Student Experience (or designee, including a panel).
  6. Recommended decisions of hearing officers appointed by the Student Conduct Officer, Dean of Student Experience & Title IX (or designee).
- iii. *Appeal Requests.*
1. A written request shall be submitted to the Dean of Student Experience & Title IX at the first level within three class days after the student is notified of the first-level hearing decision.
  2. The request shall state the reason(s) for appeal, the supporting facts, and the recommended way to correct the error.
- iv. *Burden of proof.* Appeals are not opportunities for full rehearings of cases already decided. To prevail on appeal, a student must show a clear error involving one or more of the following issues:
1. Due process violations that substantially affected the outcome of the initial hearing.
  2. Demonstrated prejudice against any party by the person presiding over the hearing. Such prejudice must be evidenced by a conflict of interest, bias, pressure, or influence that precluded a fair and impartial hearing.
  3. Newly discovered, relevant information that was not reasonably available at the time of the original hearing and that would have substantially affected the outcome of the original hearing.
  4. A sanction that is extraordinarily disproportionate to the violation committed.
  5. The preponderance of the evidence presented at the hearing does not support the finding with regard to responsibility. Appeals based on this consideration will be limited solely to a review of the record of the first-level hearing, except newly discovered evidence may also be considered.
- v. *Appellate Review Procedures.*
1. Appellate review will involve an initial file review by the appellate officer. The appellate officer may make a final determination based solely on this review.
  2. If the appellate officer determines a need for additional information, that officer may request written materials and/or an appeal hearing with the respondent and/or complainant.
  3. If deemed necessary, an appeal hearing will be scheduled within (10) ten class days of receiving the written request for appeal.

4. If deemed necessary, an appeal hearing will involve hearing the respondent and/or complainant and any witnesses called by the student and/or complainant; the appellate officer may determine whether there is a need to call any further witnesses or gather additional information.
5. An appeal hearing will be recorded in audio and/or video format; this recording will serve as the official record of the hearing.
6. The respondent and/or complainant will be afforded the opportunity to bring an advisor to the appellate hearing.
7. All hearings will be fair and impartial.
8. If the respondent and/or complainant fails to appear at the scheduled appeal hearing after proper notice or otherwise fails to cooperate with the Student Code of Conduct process, the hearing may still be held in their absence.

vi. *Appellate Recommendations and Decisions.*

1. The appellate officer may recommend to affirm, modify or reverse the first-level hearing decision, or order that a new hearing be held. The appellate officer may not modify or reverse a finding of “not responsible,” but may recommend that the finding be set aside and a new hearing be held.
2. All appellate recommendations are transmitted to the Dean of Student Experience & Title IX (or designee). The Dean of Student Experience (or designee) has the right to affirm, modify, or reverse the recommendation, or to order a new hearing.
3. The final decision is communicated in writing within ten class days of an appellate decision. This time period may be extended if necessary for consideration of the record on appeal.
4. Once approved by the Dean of Student Experience (or designee), appellate recommendations become the final decision.
5. Except in the case of an interim disciplinary action, the respondent's status will remain unchanged until the appellate process is final.

5) **Records.**

1. Records of all student conduct cases will be maintained in the Dean of Student Experience & Title IX Office. Records which result in a finding of not responsible or result in suspension or a less severe sanction shall be destroyed in compliance with North Carolina Public Records law. Dismissal records shall be permanently retained as official records, unless the student is readmitted and successfully completes a degree, at which point the record should be removed five years beyond the date of readmission. Expulsion records shall not be removed from the official files under any circumstances. Any records kept beyond these limits for statistical purposes will not be considered or released as official student conduct records.

2. The release of student conduct records will be governed by applicable federal and state laws regarding the privacy of education records. See the Student Handbook for more information on laws governing privacy of student records.
3. Recordings of hearings may be reviewed with the Student Conduct Officer. The Student Conduct Officer may require the reviewer to sign a confidentiality agreement as a condition of the review. Copies of recordings are not available unless all parties and witnesses have provided written confidentiality waivers.
4. Transcripts of recorded hearings will not be prepared by the College. Any person desiring a transcript of a recorded hearing should contact the College's General Counsel, which will arrange for the preparation of the transcript by a court reporting service. The court reporting service will provide the transcript to the College's General Counsel, which will perform a confidentiality review of the transcript and redact any confidential or exempt information pursuant to state or federal law. The requestor shall bear the cost of the transcript preparation and confidentiality review.

Approved by Board of Trustees – November 23, 2019