

National University Student Code of Conduct



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The National University Code of Student Conduct is adapted from The NCHERM Group Model Developmental Code of Student Conduct and is used here with permission.

Preface

National University (NU) is dedicated to making lifelong learning opportunities accessible, challenging, and relevant to a diverse student population. Consistent with the University mission, rights and responsibilities are extended to all members of our University community.

Community exists on the basis of shared values and principles. NU student community members are expected to uphold and abide by certain standards of conduct in which form the basis of the *Student Code of Conduct*. These standards are embodied within the below set of core values.

Core Values of Student Conduct at National University

- **Integrity:** National University students exemplify honesty, honor and a respect for the truth in all of their dealings.
- **Community:** National University students build and enhance their community.
- **Social Justice:** National University students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- **Respect:** National University students show positive regard for each other, for property and for the community.
- **Responsibility:** National University students are given and accept a high level of responsibility to self, to others and to the community.

National University students are solely responsible for having knowledge of information, policies and procedures outlined within this policy. The Office of Student Conduct (OSC) reserves the right to change this code as deemed necessary; posted changes are effective immediately.

Students are encouraged to check online at <http://www.nu.edu/OurPrograms/StudentServices/StudentConduct/CodeOfConduct.html> for the most updated versions of all policies and procedures.

SECTION 1: MISSION STATEMENT

The Office of Student Conduct seeks to enhance student learning and personal development by creating an educationally purposeful, ethical and caring community, while protecting the interests of the larger National University community. Through the fair, timely and consistent administration of the student conduct process, the Office of Student Conduct promotes student learning with the guiding principles of integrity, community, social justice, respect, and responsibility.

PHILOSOPHY STATEMENT

The NU community is committed to fostering an environment that is conducive to academic inquiry, a productive campus life, and thoughtful study and discourse. The student conduct program within the Office of Student Conduct is committed to educational and developmental processes that balances the interests of individual students, with the interests of the University community.

A community exists on the basis of shared values and principles. At National University, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Student Code of Conduct*. These standards are embodied within a set of core values that include integrity, community, social justice, respect, and responsibility.

Each member of the NU community bears responsibility for their conduct and to assume reasonable responsibility for the behavior of others. When members of the University community fail to exemplify these five values by engaging in violation of the rules below, campus conduct proceedings are used to assert and uphold the *Student Code of Conduct*.

The student conduct process at National University is not intended to punish students; rather, it exists to protect the

interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform their behavior to community expectations, the student conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but are not held to the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice, and an educational conference with an objective decision-maker. No student will be found in violation of National University policy without showing it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of each violation and to the cumulative conduct history of the student.

SECTION 2: Jurisdiction

National University students are provided a copy of the *Student Code of Conduct* annually in the form of a link on the National University website. Hard copies are available for request from the Office of Student Conduct. Students are responsible for having read and abiding by the provisions of the *Student Code of Conduct*.

The *Student Code of Conduct* and the student conduct process apply to the conduct of individual applicants and students, both undergraduate and graduate, and all National University-affiliated student organizations. For the purposes of student conduct, National University considers an individual to be a student when an offer of admission has been extended, a student identification number has been issued and thereafter, as long as the student has a continuing educational interest in the university.

National University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated; for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and/or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the responding student has graduated, National University may invoke these procedures and should the former student be found responsible, the University may revoke that student's degree.

The *Student Code of Conduct* applies to behaviors that take place on a campus, online, at University-sponsored events and may also apply off-campus when the Director of Student Affairs determines that the off-campus conduct affects National University constituents or its interests. National University interest is defined to include:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of themselves or others; and/or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of National University;

The *Student Code of Conduct* may be applied to behavior conducted online, via email, social media and all other types of electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. National University does not regularly search for this information, but may take action if and when such information is brought to the attention of National University officials. However, most online speech by students not involving National University networks or technology will be protected as free expression and not subject to this *Code*, with two notable exceptions:

- A true threat, defined as a threat that a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals;
- Speech posted online about National University or its community members that causes a significant on-campus disruption.

The *Student Code of Conduct* applies to guests of community members, whose hosts may be held accountable for the misconduct of their guests. Visitors to, and guests of, National University may seek resolution of violations of the *Student Code of Conduct* committed against them by members of National University community.

There is no time limit on reporting violations of the *Student Code of Conduct*; however, the longer someone waits to report an offense, the harder it becomes for National University officials to obtain information, witness statements, and to make determinations regarding alleged violations.

Though anonymous complaints are permitted, doing so may limit National University's ability to investigate and respond to an allegation. Those who are aware of misconduct are encouraged to file a report as quickly as possible to the OSC.

A responding student facing an alleged violation of the *Student Code of Conduct* is not permitted to withdraw from National University until all allegations are resolved. Official transcripts and/or diploma may be withheld until the allegations are resolved.

Email is the OSC's primary means of communication with students. Students are responsible for keeping their contact information current and are responsible for all communications received to their email account as indicated in official University records. Failure to check your email is NOT an acceptable excuse for failing to respond to an official communication.

SECTION 3: Violations of the Law

Alleged violations of federal, state and local laws may be investigated and addressed under the *Student Code of Conduct*. When an offense occurs over which National University has jurisdiction, the National University conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

National University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint (additional grounds for interim suspension are outlined below). Interim suspensions are imposed until an Educational Conference (EC) can be held, typically within two (2) weeks. The EC may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and National University may be delayed or prevented from conducting its own investigation and resolving the allegation by the pendency of the criminal process. In such cases, National University will only its process until such time as it can conduct an internal investigation or obtain sufficient information independently or receive a report from law enforcement to proceed. This delay will be no longer than two (2) weeks from notice of the incident unless a longer delay is requested in writing by the Reporter to allow the criminal investigation to proceed before the National University process.

Students accused of crimes may request to take a leave from National University until the criminal charges are resolved. In such situations, the National University procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial; and
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

SECTION 4: The Rules

A. Core Values and Behavioral Expectations

National University considers the behavior described in the following sub-sections as inappropriate for the NU community and in opposition to the core values set forth in this document. These expectations and rules apply to all students, whether undergraduate, graduate, or non-degree seeking. National University encourages community members to report to the OSC all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in the student conduct process.

Integrity: National University students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:

Academic Dishonesty. Academic dishonesty violations will be addressed by the instructor utilizing the guidance in the Faculty Handbook on Academic Integrity and Ethics. The instructor will subsequently report any violation that occurs at the University to the OSC at the following link: https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0. The OSC is responsible for adjudication utilizing the rubric below, and tracking of all academic integrity violations that occur at the University.

Violation Levels:

The following violation levels are assigned to specific types of violations of the *Student Code of Conduct*; if a violation of academic integrity principles occurs, which is not specifically provided for below, then any sanctions will be based on the most similar type of violation that exists in the rubric. A violation will be considered as a single violation up until the point that a student receives notice of that violation; additional infractions occurring after that point will be considered separately for purposes of this rubric. General guidance on substantial issues of interpretation of the sanction rubric may be provided by the Academic Program Lead (APL) or the Office of Student Conduct (OSC).

A student receives the assigned number of sanction points for each violation for which they are found responsible. **Sanction points are cumulative over the length of the student's tenure at National University.**

Level Zero Violation – 0.0 sanction point

- 1.0 Failure to properly acknowledge authorities quoted, cited or consulted in the preparation of written work (plagiarism). For plagiarism/copying in work done for a course, if the plagiarized/copied material constitutes less than 10% of the assignment (first offense only).
- 1.1 Unauthorized collaboration on homework assignments constituting less than 10% of the assignment (first offense only).

Level Zero Violation – 0.5 sanction point

- 2.0 Failure to properly acknowledge authorities quoted, cited or consulted in the preparation of written work (plagiarism). For plagiarism/copying in work done for a course, if the plagiarized/copied material constitutes greater than 10% of the assignment (first offense only).
- 2.1 Unauthorized collaboration on homework assignments constituting greater than 10% of the assignment (first offense only).
- 2.2 Second offences automatically escalate to a level One violation

Level One Violation – 1.0 sanction point for each violation

- 3.0 Copying from or viewing another student's work during an examination.
- 3.1 Using any materials or resources that are not authorized by the instructor for use during an examination.
- 3.2 Collaborating during an examination with any other person by giving or receiving information without specific permission of the instructor.
- 3.3 The use of any materials, textbook, notes, cellular phones, MP3 players, or other electronic devices during an examination without the expressed permission of the instructor.
- 3.4 Several people completing an assignment and turning in multiple copies, all represented either implicitly or explicitly as individual work.

- 3.3 Tampering with experimental data to obtain ‘desired’ results or creating results for experiments not done (“dry labbing”).
- 3.4 Submitting, substantial portions of the same academic work for credit more than once without specific permission of the present instructor, work that has been previously offered by the same student for credit in the same, or another course.
- 3.5 Falsification of attendance and/or participation.
- 3.6 Submitting as one’s own any theme, report, term paper, essay, computer program, speech, painting, drawing, sculpture, or other written or creative work or project of any nature prepared totally or in large measure by another with failure to properly acknowledge authorities quoted, cited or consulted in the preparation of written work (plagiarism). Copying and/or presenting the words of others as one’s own writing, including from internet sources. Copying works, even if you cite the sources, unless appropriate quotation is noted. Copying words and then changing them a little, even if you give the source. Expressing in your own words someone else’s ideas as your own. When the work in question is submitted for a class assignment, and copying/plagiarizing constitutes less than 10% of the assignment, but is a second offense, or when that copying/plagiarizing constitutes 10% or more of the assignment.
- 3.7 Unauthorized collaboration on homework assignments constituting 10% or more of the assignment, or less than 10% of the assignment on a second offense.

Level Two Violation - 1.5 sanction point for each violation

- 4.0 Buying, selling, theft of, or otherwise obtaining or providing information about an examination not yet administered.
- 4.1 The solicitation or bribing of other students to obtain assignments.
- 4.2 Substituting for another person or permitting any other person to substitute for oneself to take an examination.
- 4.3 Submitting as one’s own, any work prepared totally or in large measure by another, with failure to properly acknowledge authorities quoted, cited or consulted in the preparation of written work (plagiarism). Copying and/or presenting the words of others as one’s own writing, including from internet sources. Copying works, even if you cite the sources, unless appropriate quotation is noted. Copying words and then changing them a little, even if you give the source. Expressing in your own words someone else’s ideas as your own.
- 4.4 Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification, accusations, reports, filings, or financial instruments. Submitting altered or falsified data (in work completed for research or a class assignment).

Level Three Violation - 3.0 sanction points for each violation

- 5.0 Altering grades or official records.
 - 5.1 Falsifying or signing another person’s name on any academically-related University form or document.
 - 5.2 Intentionally sabotaging, tampering with or destroying the work of others.
 - 5.3 Submitting altered or falsified data (for work submitted for requirements outside of the classroom (e.g. honor’s thesis; master’s thesis; candidacy exam; qualifying exam).
 - 5.4 Also applies to the third Level Two violation (would apply 3.0 sanction points instead of 2.0 sanction points).
- 6. **Unauthorized Access.** Unauthorized access to any University building (i.e. keys, cards, etc.) or unauthorized possession, duplication or use of means of access to any University building or failing to timely report a lost University identification card or key.
 - 7. **Collusion.** Action or inaction with another or others to violate the *Student Code of Conduct*; which includes but is not limited to:
 - 1.0. Students are subject to disciplinary action for knowingly acting in concert with others to violate University policies and/or regulations.
 - 1.1. Students are subject to disciplinary action for being aware of the existence of a violation of University policies and/or regulations and failing to take reasonable action to report the violations in a timely manner.
 - 1.2. Students are responsible at all times for the actions of their guests that are on campus visiting a member of the campus community.

8. **Trust.** Violations of positions of trust within the community; and/or deliberately misleading University officials or agents who are attempting to gain information for University business.
9. **Election Tampering.** Tampering with the election of any National University-recognized student organization (minor election code violations are addressed by the Associate Director of NU Scholars Program).
10. **Taking of Property.** Intentional and unauthorized taking of National University property or the personal property of another, including goods, services and other valuables; attempting to take sell or keep in one's possession, including but not exclusively, items of National University property, or items belonging to students, faculty, staff, student groups, visitors or to others within the larger community whether on or off campus.
11. **Stolen Property.** Knowingly taking or maintaining possession of stolen property.

Community: National University students build and enhance their community. Behavior that violates this value includes, but is not limited to:

Disruptive Behavior. Disruption of University operations including non-adherence to and/or disregard for location specific rules and behavioral expectations such as, but not limited to, the library, computer, science and/or simulation labs.

Disruptive behaviors are separated into two different categories: Minimum and Significant

Minimum: Minor disruption of University operations which occur on/off campus or online will be addressed by the Professor, Academic Program Lead, Director or Manager of the University department where the behavior occurred and documented for the department file.

Examples include, but not limited to:

- Repeated and disruptive tardiness to class or appointments
- Eating and/or drinking (if not permitted)
- Electronic devices going off
- Email or phone harassment (1-3 separate instances within a short time frame)
- Performing a distracting repetitive act such as tapping feet or fingers, popping gum, or loud talking
- Disrespectful engagement online or in-person

12. **Significant.** Substantial disruption of University operations including obstruction of teaching, research, administration, other University activities, and/or other authorized non-University activities which occur on/off campus or online must be reported immediately and will be addressed by the OSC.

Persistent Minimum level behaviors can become Significant level concerns. When reporting persistent minimum level behaviors, that have risen to the significant level, please provide the OSC with adequate documentation regarding prior occurrences, including all attempts at addressing the behavior at the department level.

Examples include, but are not limited to:

- 1.0. Persistent Minimum level behaviors (3+ separate instances)
 - 1.1. Invading one's personal space or blocking an entry or exit way
 - 1.2. Moving around the classroom in a threatening manner and/or without authorization (e.g. During a lecture)
 - 1.3. Aggressive confrontation of another person
 - 1.4. Explicit or implicit threats

13. **Disorderly Assembly.** 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; which includes, but is not limited to, the following:

- 1.0. Assembling on-campus for the purpose of disrupting classes, seminars, meetings, research projects, or activities of the University
 - 1.1. Assembling on-campus for the purpose of creating or attempting to create a riot, destroying property, or creating a disorderly diversion that interferes with the normal operation of the University (i.e. water balloon or water gun fights, egging incidents, etc.)
 - 1.2. Obstructing the freedom of movement of other persons to and from University facilities or materially interfering with the normal operation of the University
 - 1.3. Engaging in abuse of or unauthorized use of sound amplification equipment indoors or outdoors during class hours (any use of sound amplification equipment must be cleared in advance through the Center Director of the specific campus where the event will take place. For student organizations, this must first be cleared by the Office of Student Engagement and Leadership and then the Center Director)
14. **Unauthorized Entry.** Misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a University building.
15. **Trademark.** Unauthorized use (including misuse) of University or organizational names and images.
16. **Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another.
17. **IT and Acceptable Use.** Violations in this category would include, but are not limited to:
- 1.0. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose
 - 1.1. Unauthorized transfer of a file
 - 1.2. Unauthorized use of another individual's identification and password
 - 1.3. Use of computing facilities to view or send indecent, obscene, threatening or abusive messages
 - 1.4. Use of computer facilities that violate copyright laws including the unauthorized distribution of copyrighted material via file sharing
 - 1.5. Inappropriate use of social media (including but not limited to Facebook, Instagram, Twitter, Snapchat, Vine, blogs, etc.)
 - 1.6. Use of computing facilities to interfere with the normal operation of the Office of Information Technology
18. **Gambling.** Gambling as prohibited by the laws of the State of California; (Gambling may include video games, dice, raffles, lotteries, sports pools, online betting activities, any other game of skill or chance for money).
19. **Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons and pellet guns), or other weapons or objects deemed dangerous such as arrows, axes, machetes, nun chucks, throwing stars, or non-folding knives with a blade of longer than 4 inches, mace or pepper spray, chemical weapons, darts, box cutters, including the storage of any item that falls within the category of a weapon in a vehicle parked on University property
20. **Smoking or Tobacco.** Smoking or tobacco sale or use in any area of National University facilities, vehicles, and outside stairways.
- Students who smoke, are required to smoke outside and at a minimum of 25 feet away from the building. Smoking materials must be properly disposed of in appropriately designated receptacles. (Please see *National University Smoking Policy* for more information).
21. **Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to:
- 1.0. Intentionally or recklessly causing a fire which damages University or personal property or which causes injury
 - 1.1. Failure to evacuate a National University-controlled building during a fire alarm
 - 1.2. Improper use of National University fire safety equipment

1.3. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on National University property. There is the possibility that such action may result in a local fine in addition to National University sanctions.

22. **Ineligible Pledging or Association.** Pledging or associating with a student organization without having met eligibility requirements established by National University.
23. **Animals.** Animals and pets, with the exception of service animals for persons with disabilities are not permitted in any university facility. Students who have questions on whether their animal will be allowed on campus due to a disability are responsible to contact the Student Accessibility Services (SAS) team (Please visit <http://www.nu.edu/OurPrograms/StudentServices/accessibility.html> for more information).
24. **Wheeled Devices.** Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted inside National University buildings. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to National University property caused by these activities.

Social Justice: National University students recognize that respecting the dignity of every person is essential for creating and sustaining a flourishing university community. They understand and appreciate how their decisions and actions impact others and are just and equitable in their treatment of all members of the community. They act to discourage and challenge those whose actions may be harmful to and/or diminish the worth of others. Conduct that violates this value includes, but is not limited to:

25. **Discrimination.** Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation or other protected status), that is sufficiently severe in that it limits or denies the ability to participate or benefit from the University's educational program or activities. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).
26. **Unwelcome Harassment.** Any unwelcome conduct in-person or online, on the basis of an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation or other protected status. Any unwelcome conduct should be reported to a campus official, who will act to remedy and/or resolve reported incidents on behalf of the parties involved and the community. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).
- 1.0. **Hostile Environment.** Sanctions can, and will be imposed for the creation of a hostile environment only when unwelcome harassment is sufficiently severe, pervasive or persistent, and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University educational or employment program or activities. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).

27. **Retaliatory Discrimination or Harassment.** Any intentional, adverse action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant, or supporter of a participant in a civil rights grievance proceeding or other protected activity under this *Code*. To be considered retaliation, a causal connection is required between a materially adverse action and the act of:

- 1.0. Reporting an allegation; or
1.1. Participating in support of an investigation

A materially adverse action is one that would dissuade a reasonable person from reporting an allegation of a policy violation under this *Code*. A determination of whether an action is materially adverse is made on a case-by-case basis. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).

28. **Bystanding.** Students are expected to “reasonably” respond to assist other students in need.
- 1.0. Complicity with or failure of any student to appropriately address known or obvious violations of the *Student Code of Conduct* or law
 - 1.1. Complicity with or failure of any organized group to appropriately address known or obvious violations of the *Student Code of Conduct* or law by its members
29. **Abuse of Conduct Process.** Abuse or interference with, or failure to comply in, University processes including conduct and academic integrity conferences, including, but not limited to:
- 1.0. Falsification, distortion, or misrepresentation of information
 - 1.1. Failure to provide, destroying or concealing information during an investigation of an alleged policy violation
 - 1.2. Attempting to discourage an individual’s proper participation in, or use of, the campus conduct system
 - 1.3. Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding
 - 1.4. Failure to comply with the sanction(s) imposed by the campus conduct system
 - 1.5. Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system

Respect: National University students show positive regard for each other and for the community. Behavior that violates this value includes, but is not limited to:

30. **Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person.
31. **Threatening Behaviors.** Students should not be engaged in any behavior that seeks to threaten or intimidate others. Thereby, disrupting the ability to maintain a positive environment conducive to learning.
- 1.0. **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the physical health, mental health, or safety of any person or damage to any property.
 - 1.1. **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of emotional, mental, or physical harm in another.
32. **Bullying and Cyberbullying.** Bullying and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.
33. **Hazing.** Defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent, failing to discourage or failing to report those acts may also violate this policy.
34. **Intimate Partner/ Relationship Violence.** Violence or abuse by a person in an intimate relationship with another. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).
35. **Stalking.** Stalking is a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear, this would include persistent contact via electronic mediums (Facebook, Instagram, Email, Text Message, etc.). (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).

36. **Sexual Misconduct.** Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, or sexual exploitation (Please see *National Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).
37. **Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts. (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).

Responsibility: *National University students are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to:*

38. **Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the University's Alcohol Policy (Please see *National University Drug and Alcohol Policy* for more information).
39. **Drugs.** Use, possession or distribution of illegal drugs or other controlled substances or drug paraphernalia except as expressly permitted by law and the University's Drug Policy. (Please see *National University Drug and Alcohol Policy* for more information).
40. **Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications. (Please see *National University Drug and Alcohol Policy* for more information).
41. **Failure to Comply.** Failure to comply with the reasonable directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
42. **Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to; knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.
43. **Arrest.** Failure of any student to accurately report an off-campus arrest by any law enforcement agency for any crime (including non-custodial or field arrests) to the Office of Student Conduct within seventy-two (72) hours of release.
44. **Other Policies.** Violating other published University policies, regulations or rules.

Students are subject to the specific policies in the academic handbook of the program in which they are enrolled. Students registered in courses that involve clinical rotations, student teaching or internships are also subject to the specific policies of those allied third-party sites.

45. **Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.).
46. **Violations of Law.** Evidence of violation of local, state or federal laws, when substantiated through the University's conduct process.

SECTION 5: OVERVIEW OF THE CONDUCT PROCESS

This overview gives a general idea of how the University's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of University

rules.¹

NOTICE. Once notice is received from any source (victim, 3rd party, online, etc.), the University may proceed with a preliminary inquiry and/or may schedule an initial conference with the responding student to explain the conduct process to the responding student and gather information.

A. STEP 1: Initial Inquiry and/or Educational Conference

The University conducts a prompt initial inquiry into the nature of the incident or notice, the evidence available, and the parties involved. The initial inquiry may lead to:

- 1) A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the *Student Code of Conduct*, (e.g. for reasons such as mistaken identity or allegations of behavior that falls outside the *Code*)
- 2) A more comprehensive investigation, when it is clear more information must be gathered (see detailed procedures below)
- 3) A formal complaint of a violation and/or an educational conference with the responding student

When an initial conference is held, the possible outcomes include:

- A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate
- A decision on the allegation, also known as an “informal” or “administrative” resolution to an uncontested allegation (see immediately below)
- A decision to proceed with additional investigation and/or referral for a “formal” resolution

If a decision on the allegation is made and the finding is that the responding student is not responsible for violating the *Code*, the process will end. The party bringing the complaint may request that the Director of Student Affairs reopen the investigation and/or grant an administrative hearing. This decision shall be in the sole discretion of the Director of Student Affairs and will only be granted for extraordinary cause. If the University’s finding is that the responding student is in violation, and the responding student accepts this finding within three (3) days, the University considers this an “uncontested allegation.” The Conduct Officer (CO) conducting the initial conference will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends².

If student accepts the findings, but rejects the sanction, the CO will make a sanction(s)-only recommendation to the Director of Student Affairs (based on precedent, prior violations of a similar nature that may indicate pattern, etc.). The sanction(s) is then reviewed and finalized by the Director of Student Affairs and is subject to appeal (see *Appeal Review Procedures* below) by any party to the misconduct. Once the appeal is decided, the process ends.

If the CO conducting the Educational Conference (EC) determines that it is more likely than not that the responding student is in violation, and the responding student rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

B. STEP 2: Formal Hearing by Educational Conference

In a contested allegation, additional investigation may then be commenced and/or a hearing by EC may be held when there is reasonable cause to believe that a rule(s) have been violated. A formal notice of charge will be issued, and a hearing by EC will be held with a CO. A finding will be determined and is final, except in cases that involve Title IX or other class-based discrimination allegations. In those cases, please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information.

¹ In Title IX related issues, the “administrator” is any “responsible employee” as defined under the National University Civil Rights Equity Resolution for all Faculty, Students, and Employees policy.

² In cases of minor misconduct, both steps in this paragraph can be accomplished in one meeting.

C. STEP 3: Review and Finalize Sanction(s).

If the student is found in violation(s), sanction(s) will be recommended by the CO to the Director of Student Affairs (based on precedent, prior violations of a similar nature that may indicate pattern, etc), who will review and finalize the sanctions, subject to the University appeals process by any party to the complaint.

Student Conduct Authority

A. Authority

The Director of Student Affairs is vested with the authority over student conduct by the President. The Director of Student Affairs oversees and manage the student conduct process. The Director of Student Affairs designates administrators such as CO's to efficiently and effectively supervise the student conduct process. The CO will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit.

B. Gatekeeping

No complaint will be forwarded for an EC unless there is "reasonable" cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a reporter's statement. A complaint wholly unsupported by any credible information will not be forwarded for an initial conference.

C. Conflict Resolution Options

The Director of Student Affairs has discretion to refer a complaint for mediation or other forms of appropriate conflict resolution. All parties must agree to conflict resolution and to be bound by the decision with no review/appeal. Any unsuccessful conflict resolution can be forwarded to a formal educational conference; however, at no time will complaints of physical sexual misconduct or violence be mediated as the sole institutional response (Please see the *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information). The Director of Student Affairs may also suggest that complaints that do not involve a violation of the *Student Code of Conduct* be referred for mediation or other appropriate conflict resolution.

D. Conduct Officers

Conduct Officers (CO) are staff members within the Office of Student Conduct. These administrators are tasked with the investigation and adjudication of alleged University policy violations. CO's are selected by the Director of Student Affairs and employed full-time by the University. Oversight for the annual training of CO's is the responsibility of the Director of Student Affairs.

E. Panel Pool and the Appeals Panel

Three-member Appeals Panels are drawn from the panel pool comprised of at least 6 faculty and 6 staff, with the only requirement being that there is no conflict of interest with the parties involved in the case. Appeals Panels review appeal requests submitted by the Director of Student Affairs. To serve in the panel pool, faculty and/or staff must:

- 1) Submit an application online via the National University website, by using the form found on the Office of Student Conduct webpage and by pushing the "Appeal Panel App" button
- 2) Be selected and subsequently trained for at least eight (8) hours annually by the Director of Student Affairs (or designee). Training occurs annually at the end of the Summer term.

The Director of Student Affairs will have final authority to approve all those serving on the panel. The non-voting advisor (for process related question only) to the panel is the Director of Student Affairs with responsibility for training the panel and ensuring a fair process for both the party bringing the complaint and responding student. In the event of a resignation from the panel, the Director of Student Affairs will solicit a replacement from the group from which the representative came (e.g. if a faculty resigned than another faculty member will be selected). Decisions made, and sanctions imposed, by the panel or a CO, will be final and implemented, pending the normal appeal process. At the discretion of the Director of Student Affairs, implementation of sanctions may be suspended pending review.

Interpretation and Revision

The Director of Student Affairs will develop procedural rules for the administration of EC's and/or appeals panels that are consistent with provisions of the *Student Code of Conduct*. Material deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Director of Student Affairs may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this *Code*. The Director of Student Affairs may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the *Student Code of Conduct* will be referred to the Director of Student Affairs, whose interpretation is final. The *Student Code of Conduct* will be updated annually under the direction of the Director of Student Affairs with a comprehensive revision process being conducted every 5 years.

SECTION 6: Formal Conduct Procedures

University as Convener

The University is the convener of every action under this *Code*. Within that action, there are several roles. The Respondent is the person who is alleged to have violated the *Code*. The party bringing the complaint is the Reporter, who may be a student, employee, visitor, or guest. The Reporter may, if they so choose, be present and participate in the process as fully as the Respondent. There are Witnesses, who may offer information regarding the allegation. There is an Investigator(s) whose role is to present the allegations and share the evidence that the University has obtained regarding the allegations.

Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers;
OR
- Were known or should have been known to the membership or its officers.

EC's for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

Amnesty:

1) For Victims

The University provides amnesty to victims who may be hesitant to report to University officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.³

2) For Those Who Offer Assistance

To encourage students to offer help and assistance to others, University pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Director of Student Affairs, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

3) For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations. Educational options will be explored, but

no conduct proceedings or record will result.

Records regarding the provision of amnesty are maintained. Abuse of amnesty requests can result in a decision by the Director of Student Affairs not to extend amnesty to the same person repeatedly.

Notice of Alleged Violation

Any member of the University community, visitor or guest may allege a policy violation(s) by a student for misconduct under this *Code* by filling out the form found at this link https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0 with all of the pertinent details.

Notice may also be given to the Director of Student Affairs (or designee), the Title IX Coordinator, or any member of the Civil Rights Team, when appropriate. Additionally, administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by a victim or a third party, and should be submitted as soon as possible after the incident occurs. The University has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

The Director of Student Affairs (or designee) will assume responsibility for the investigation of the alleged policy violation as described in the sub-section below.

Initial Conference (IC)

An IC may be held in-person, by video conferencing, or by telephone. During the IC, the administrator will explain the nature of the complaint and the conduct process. At this conference, the responding student may indicate either verbally or in writing, whether they admit to or deny the allegations or the complaint. The administrator may present the Respondent with a Case Resolution Form (CRF), allowing the responding student to indicate in writing whether they accept responsibility for the allegations. When an IC is held, the possible outcomes include:

- A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate
- A decision on the allegation, also known as an “administrative” resolution to an uncontested allegation (see immediately below)
- A decision is made to proceed with additional investigation and potentially an Educational Conference (EC).

Investigation

A Conduct Officer will serve as the investigator for allegations under this *Code*.⁴ The investigator will take the following steps:

- 1) Initiate any remedial actions if necessary
- 2) Determine the identity and contact information of the person bringing the allegation (i.e. the Reporter), whether that person is the initiator of the allegation, the alleged victim, or a University proxy or representative
- 3) Commence the investigation, identify an initial list of all policies that may have been violated, review the history of the involved parties, the context of the incident(s), any potential patterns and the nature of the allegation, make a determination as to which specific policy violation(s) should serve as the basis for the allegation
 - a) If the Reporter is reluctant to participate in the process, determine whether the allegation should still be pursued and whether sufficient independent evidence could support the process without the participation of the Reporter
 - b) Notify the Reporter of whether the University intends to pursue the process regardless of their involvement, their rights in the process and the option to become involved if they so choose;
 - c) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action
 - d) An investigation usually takes two (2) weeks. However, the timeframe can vary depending on circumstances

⁴ For any report that falls under Title IX, please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy*.

- 4) Meet with the party bringing the complaint to finalize their statement, which will be drawn up by the investigator as a result of this meeting
- 5) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview
- 6) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy
- 7) Obtain all documentary evidence and information that is available
- 8) Obtain all physical evidence that is available
- 9) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline
- 10) Make a finding, based on a preponderance of the evidence (whether a policy violation is “more likely than not”)
- 11) Present the investigation report and findings to the responding student during an EC.
- 12) If applicable, share the findings and update the party bringing the complaint on the status of the investigation and the outcome.

Findings

The following section describes how to proceed depending on whether the responding student is found responsible, or not responsible for a violation of University policy.

1) The Responding Student is Found “Not Responsible”

Where the Respondent is found not responsible for the alleged violation(s), the investigation will be closed. The Reporter, if any, may request that the Director of Student Affairs, review the investigation file to possibly re-open the investigation. The decision to re-open an investigation rests solely in the discretion of the Director of Student Affairs, in these cases, and is granted only on the basis of extraordinary cause.

2) The Responding Student is Found “Responsible”

Should the Respondent be found to have violated University policy, the administrator who reviewed the Investigation Report (IR), and conducted the EC will make a decision on appropriate sanction(s) for the violation(s). The sanctions are implemented by the Director of Student Affairs (or designee) and the process ends. In cases of class-based discrimination, harassment, or related retaliation, please see the *National University Equal Opportunity, Harassment and Nondiscrimination Policy* to see who will make a decision on appropriate sanction(s) for the violation(s).

Interim Action

Under the *Student Code of Conduct*, the Director of Student Affairs (in consultation with the Director of Security or the CARE Team) may impose restrictions and/or separate a student from the University community for no more than ten (10) business days pending the scheduling of an IC on alleged violation(s) of the *Student Code of Conduct* when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve University property and/or to prevent disruption of, or interference with, the normal operations of the University. Interim actions can include separation from the institution or restrictions on participation in the NU community for no more than ten (10) business days pending the scheduling of an EC on alleged violation(s) of the *Student Code of Conduct*. A student who receives an interim suspension may request a meeting with the Director of Student Affairs to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, the University may still proceed with the investigation and the scheduling of an EC.

During an interim suspension, a student may be denied access to University campus/facilities/events. As determined appropriate by the Director of Student Affairs, this restriction may include classes in-person or online and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Director of Student Affairs and with the approval of, and in collaboration with, the Academic Program Director (APD), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding student.

Conduct Sanctions

One or more of following sanctions may be imposed upon any student found responsible for any single violation of the *Student Code of Conduct*:

- 1) *Warning*: An official written notice that the student has violated University policies and/or rules and that more severe conduct action will result should the student be involved in any other violations while the student is enrolled at the University.
- 2) *Restitution*: Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- 3) *Community/University Service Requirements*: For a student or organization to complete a specific supervised community or University service.
- 4) *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- 5) *Confiscation of Prohibited Property*: Items whose presence is in violation of University policy will be confiscated and will become the property of the University. Prohibited items may be returned to the owner at the discretion of the Director of Student Affairs and/or Campus Security.
- 6) *Behavioral Requirement*: This includes required activities including, but not limited to, seeking academic counseling or substance abuse counseling, writing a letter of apology, etc.
- 7) *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- 8) *University Probation*: The student is placed on official notice that, should further violations of University policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- 9) *Eligibility Restriction*: The student is deemed “not in good standing” with the University for a specified period of time. Specific limitations or exceptions may be granted by the Director of Student Affairs and terms of this conduct sanction may include, but are not limited to, the following:
 - a) Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
 - b) Ineligibility to represent the University to anyone outside the University community in any way including: participating in a study tour or study abroad program, attending conferences, or representing the University at an official function, event or competition as a competitor, manager or student coach, etc.
- 10) *University Suspension*: Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted in the Decision Letter at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Student Affairs. During the suspension period, the student is banned from all university property, functions, events, activities, online classes and or NU Commons Facebook activity without prior written approval from the Director of Student Affairs (or designee). This sanction may be enforced with a trespass action as necessary.

- 11) *University Expulsion*: Permanent separation from the University. The student is banned from all University property and the student's presence at any University-sponsored activity or event (including alumni events) is prohibited. This action may be enforced with a trespass action as necessary.
- 12) *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Director of Student Affairs or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the *Student Code of Conduct*:

- 1) One or more of the sanctions listed above; and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a University registered group/organization), for a specified period of time.

Parental Notification

The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or consent of the student.

Notification of Outcomes

The outcome of a conduct proceeding is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or forcible or non-forcible sex offense, National University will inform the alleged victim in writing of the final results of a conduct proceeding and/or an appeal panel regardless of whether the University concludes that a violation was committed. Such release of information may only include the responding student's name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the incident, in addition to the finding and sanction(s).

In cases where National University determines through the student conduct process that a student violated a policy that would constitute a "crime of violence" or non-forcible sex offense, the University may also release the above information publicly and/or to any third party. FERPA defines "crimes of violence" to include:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and non-negligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offences
- 10) Non-forcible sex offences

Failure to Complete Conduct Sanctions

All students, as members of the University community, are expected to comply with conduct sanctions within the timeframe specified by the Director of Student Affairs, Conduct Officer (or designee). Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from the University.

SECTION 7: THE APPEAL REVIEW PROCESS

Any party may request an appeal of the decision of the EC by filing a written request to the Appeals Coordinator, subject to the procedures outlined below. If a party is granted an appeal, the party is granted only one Appeal, based

on the outline “Grounds for Appeal Requests” provided below. All sanctions imposed by the original decision-maker(s) remain in effect, and all parties will be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

Grounds for Appeal Requests

Appeals requests are limited to the following grounds:

- 1) A procedural error occurred that significantly impacted the outcome of the EC (e.g. substantiated bias, material deviation from established procedures, etc.);
- 2) To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction.⁵ A summary of this new evidence and its potential impact must be included;⁶
- 3) The sanctions imposed are substantially outside the precedent set by National University for the same type of offense or the cumulative conduct record of the responding student.

Appeals must be filed by using the form found on the Office of Student Conduct webpage and by pushing the “File an Appeal” button or by following this link https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=1 within five (5) business days of the notice of the outcome of the EC, barring exigent circumstances. Any exceptions are made at the discretion of the Appeals Coordinator.

The Appeals Coordinator will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the responding student appeals, the appeal is shared with the Reporter, who may wish to file a response, or request an appeal on the same grounds or different grounds).

The Appeals Coordinator will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. Consultation with the Director of Student Affairs may occur on any procedural or substantive questions that arise. The Appeals Coordinator will draft a response memorandum to the appeal request(s), based on whether the request(s) will be granted or denied, and the rationale.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeals Coordinator will either refer the appeal to the Appeal Panel or remand it to the original decision-maker(s), typically within 3-5 business days. Efforts will be made to remand whenever possible, with clear instructions for reconsideration only in light of the granted appeal grounds. Where the original decision-maker may be unduly biased by a procedural or substantive error, a new panel will be constituted to reconsider the matter, which can in turn be appealed, once. Full re-hearings by the Appeals Panel are not permitted. Where new evidence is presented or the sanction is challenged, the Appeals Coordinator will determine if the matter should be returned to the original decision-maker(s) for reconsideration or if it should be reviewed by the Appeals Panel with instruction on the parameters regarding institutional consistency and any applicable legal guidelines. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party to show clear error. The Appeal Panel must limit its review to the only the challenges presented.

On reconsideration, the party assigned to hear the appeal may affirm or change the findings and/or sanctions of the original EC in accordance with the granted appeal grounds. Procedural errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student’s cumulative conduct record.

All appeal decisions are to be made within ten (10) business days of submission and are final, as are any decisions remanded to the original decision maker, Appeals Panel or Title IX Coordinator as applicable.

The Appeal Panel

⁵ Failure to provide information during or participate in an investigation or an EC, even resulting from concern over pending criminal or civil proceedings, does not make evidence “unavailable” at the time of the EC.

⁶ The Appeals Coordinator will consult with the original decision maker.

Three-member Appeal Panels are drawn from a trained panel pool, with the following requirements to serve.

- 1) they do not have any conflicts of interest
- 2) they were not involved in the investigation in any way
- 3) they have been properly trained annually for a minimum of eight (8) hours in appeals procedures

The Director of Student Affairs will have final authority to approve all those serving on the panel. The parties may challenge a panelist(s) on the basis of potential bias, and any panelist who cannot render an impartial decision must recuse themselves. The Director of Student Affairs will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Director of Student Affairs will solicit a replacement from the pool of panelists.

The Director of Student Affairs (or designee) serves as the non-voting advisor to the panel, with responsibility for training the panel annually, conducting preliminary investigations, and ensuring a fair process for both parties.

The presumptive stance of the University is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appellate process. At the discretion of the Director of Student Affairs, implementation of sanctions may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

Other Guidelines for Appeals

- 1) All parties will be timely informed, within five (5) business days of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- 2) Every opportunity to return the appeal to the original decision-maker for reconsideration (remand) should be pursued;
- 3) Appeals are not intended to be full re-investigations of the complaint. Appeals are confined to a review of the written documentation or record of the original EC, and pertinent documentation regarding the grounds for appeal; Witnesses may be called if necessary.
- 4) Appeals are not an opportunity to substitute opinions or judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

SECTION 8: DISCIPLINARY RECORDS

All conduct records are maintained by the University for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion) and those that fall under Title IX, which are maintained indefinitely (Please see *National University Equal Opportunity, Harassment and Nondiscrimination Policy* for more information).

This policy and procedure were implemented in September 2018.