

STUDENT CODE OF CONDUCT

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THE UNIVERSITY OF TENNESSEE
CHATTANOOGA

TABLE OF CONTENTS

SECTION 1. PREAMBLE2

SECTION 2. DEFINITIONS2

SECTION 3. JURISDICTION AND APPLICATION6

SECTION 4. STANDARDS OF CONDUCT8

SECTION 5. DUE PROCESS RIGHTS AND CONFLICTS OF INTEREST12

SECTION 6. STUDENT CONDUCT PROCESS – INITIAL AND PRE-RESOLUTION STAGES15

SECTION 7. STUDENT CONDUCT PROCESS – METHODS OF RESOLUTION20

SECTION 8. HEARING OFFICER HEARINGS24

SECTION 9. STUDENT CONDUCT BOARD HEARINGS26

SECTION 10. TITLE IX HEARINGS30

SECTION 11. DISCIPLINARY SANCTIONS34

SECTION 12. APPEALS38

SECTION 13. CONCLUSION OF THE STUDENT CONDUCT PROCESS40

SECTION 14. INTERIM ACTIONS41

SECTION 15. STUDENT PARKING APPEALS BOARD44

SECTION 16. STUDENT CONDUCT RECORDS44

SECTION 17. AMNESTY FOR GOOD SAMARITANS AND IMPAIRED STUDENTS45

SECTION 1. PREAMBLE

- (1) Students at the University of Tennessee at Chattanooga ("University") are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner and in compliance with University rules and policies. The University has established the Student Code of Conduct ("Code") in order to advance the mission of the University by maintaining a safe and secure learning environment, protecting the rights and privileges of all members of the University community, providing a basis for orderly conduct of the affairs of the University, promoting a positive relationship between the University and its surrounding community, preserving institutional integrity and property, encouraging students to engage in conduct that brings credit to themselves and to the University, and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding individual.
- (2) The University's behavioral standards are set forth in the Code. Students who engage in conduct in violation of the Code are subject to University disciplinary sanctions. The University investigates and resolves alleged violations of the Code through the student conduct process and utilizes the process to promote learning and the development of appropriate decision-making. The student conduct process is consistent, fair, and provides means of resolution that are commensurate with the skills and abilities of the participants in the process.
- (3) Primary authority and responsibility for the Code is delegated to the Vice Chancellor for Student Affairs, who has delegated certain authority and responsibility for administration and enforcement of the Code to the Office of Student Conduct.
- (4) The University is committed to respecting students' constitutional rights. Nothing in this Chapter is intended or will be interpreted in a manner that restricts a student's constitutional rights, including, but not limited to, a student's right to freedom of speech and freedom of assembly.
- (5) Students are responsible for being knowledgeable about and complying with the Code, applicable academic catalogues (undergraduate or graduate), and all other University rules, policies, and procedures.

SECTION 2. DEFINITIONS

The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) **Advisor:** A person who provides assistance to a Complainant or Respondent during the student conduct process, as provided under Section 5(3) of this Chapter.
- (2) **Business day:** An official workday during which the University conducts business. Typically, a business day is a weekday (Monday through Friday), excluding any weekdays designated by the University as a holiday or in which the University is administratively closed. Each business day commences at 8:00 a.m. and ends at 5:00 p.m.
- (3) **Chancellor:** The University's chief executive officer to whom the President of the University of Tennessee system has delegated primary responsibility for administration of University operations, policies, and procedures.

- (4) Code: The Student Code of Conduct of the University of Tennessee at Chattanooga, as set forth under this Chapter.
- (5) Complainant: Any person, group, or organization that may have been subjected to conduct that violates the Code, regardless of whether that person, group, or organization makes a complaint or reports an alleged violation of the Code to the University.
- (6) Designee: A University official or office designated with the authority to carry out a duty or role on behalf of another University official or office.
- (7) Faculty: A University employee who holds faculty rank and whose primary appointment is to engage in academic instruction, research, or service.
- (8) Formal Complaint: A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section 2(29)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- (9) Formal Hearing: A University hearing before a fair and impartial decision-maker in which a Respondent may contest charges of Code violations and/or disciplinary sanctions issued against the Respondent, as provided under Section 7(1) of this Chapter.
- (10) Good faith: Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for its truth.
- (11) Hearing Officer: A University employee designated by the Office of Student Conduct to conduct a Preliminary Meeting, as provided under Section 6(3) of this Chapter, or to conduct and serve as the decision-maker in a Hearing Officer Hearing, as provided under Section 8 of this Chapter.
- (12) Hearing Officer Hearing: A type of Formal Hearing in which a Hearing Officer serves as the decision-maker, as provided under Section 8 of this Chapter.
- (13) Member of the University community: Any person who is a student, faculty member, staff employee, campus visitor, or participant in a University-sponsored or University-affiliated activity, or any organization that participates in a University-sponsored or University-affiliated activity.
- (14) Notice: Notice given in writing and transmitted by one (1) or more of the following: (i) e-mail to a student's University-issued e-mail account; (ii) United States mail, (iii) courier service, and/or (iv) hand-delivery to the address the University's Records Office has on file for the student. When a notice is transmitted by e-mail, the notice is effective on the date the e-mail is sent. E-mail to a student's University-issued e-mail address is an official method of communication used by the University for student conduct matters. When a notice is

- transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand-delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed.
- (15) Office of the Dean of Students: The University office designated with primary responsibility for the administration of the Office of Student Conduct. The Office of the Dean of Students may act as or on behalf of the Office of Student Conduct.
 - (16) Office of Student Conduct: The University office designated with primary responsibility for administering and enforcing the Code and implementing student conduct-related rules, policies, procedures, training, and education.
 - (17) Possession: Direct, indirect, or communal control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that a reasonable presumption could be made that one had possession of the substance or property.
 - (18) Relevant information: Information having any tendency to make the existence of any fact that is of consequence to determining whether a Respondent violated the Code more probable or less probable than it would be without the information. This definition does not apply to Title IX Hearings.
 - (19) Respondent: A student who has been charged with violating the Code and/or whose alleged misconduct is being investigated by the Office of Student Conduct.
 - (20) Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (iii) sexual assault, dating violence, domestic violence, or stalking.
 - (21) Staff: Any full-time or part-time University employee not primarily engaged in academic instruction, research, or service, who holds either an exempt or non-exempt position with or without administrative, executive, or managerial responsibilities, excluding student employees of the University.
 - (22) Student: A person who:
 - (a) Is admitted, enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, professional, and/or non-degree courses; or
 - (b) Has completed a preceding academic term at the University and is eligible for re-enrollment without re-applying for admission and/or otherwise has a continuing relationship with the University; or
 - (c) Attended the University during a previous academic term and engaged in conduct in violation of the Code during his or her time of enrollment; or

- (d) Is admitted to the University and later matriculated at the University, and committed conduct in violation of the Code during the application process or during the period of time between admission and matriculation at the University.

Except where explicitly provided otherwise in this Code, the term "student" shall also refer to student organizations.

- (23) Student Conduct Board: A hearing board consisting of students, faculty, and staff appointed by the Office of the Dean of Students (or designee), which serves as the decision-maker in a Student Conduct Board Hearing, as provided under Section 9 of this Chapter.
- (24) Student Conduct Board Chairperson: A University employee appointed by the Office of the Dean of Students (or designee) to preside over and facilitate a Student Conduct Board Hearing.
- (25) Student Conduct Board Hearing: A type of Formal Hearing in which a Student Conduct Board serves as the decision-maker, as provided under Section 9 of this Chapter.
- (26) Student conduct process: The processes and procedures for resolving alleged violations of the Code as set forth in University rules.
- (27) Student conduct record: The collective printed or electronic record of any cases involving alleged violations of the Code by a student. A student conduct record may include, without limitation, incident report(s), correspondence, investigation report(s), interview records, demographic information, evidence, hearing records and recordings, and the student's conduct history.
- (28) Student organization: An organization, club, fraternity, sorority or other group whose membership is composed of University students and which is formally registered and recognized by the University according to University rules, or which has submitted a pending application for registration with the University according to University rules.
- (29) Title IX Allegations: Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section 2(20)) in the University's education program or activity and occurred within the United States as defined in 34 C.F.R. 106.30(a).
- (30) Title IX Hearing: A type of Formal Hearing in which a Title IX Hearing Officer serves as the decision-maker, as provided under Section 10 of this Chapter.
- (31) Title IX Hearing Officer: A person or persons appointed to conduct a Title IX Hearing.
- (32) UAPA: The Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 et seq.
- (33) UAPA Administrative Judge: A hearing officer who presides over and serves as the decision-maker in a UAPA Hearing.
- (34) UAPA Hearing: A type of Formal Hearing conducted by a UAPA Administrative Judge in accordance with Chapter 1720-01-05 and the UAPA.
- (35) University: The University of Tennessee at Chattanooga.
- (36) University-affiliated activity: Any activity, on or off University-controlled property, that is initiated, aided, authorized, sponsored, or supervised by the University.

- (37) University-controlled property: All land, buildings, facilities, grounds, structures, or any other property owned, leased, used, maintained, or operated by the University. For purposes of this rule, University-controlled property includes all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes, but is not limited to, computers and network systems owned, maintained, controlled, or funded by the University.
- (38) University official: A University employee when acting in the course and scope of his or her employment duties.
- (39) Vice Chancellor for Student Affairs: The University's chief student affairs officer to whom the Chancellor has delegated primary authority and responsibility for the administration of the Code.
- (40) Weapon: Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, any firearm (loaded or unloaded); real firearm or device that would appear to a law enforcement officer to be a real firearm; ammunition; electronic control device (including, but not limited to, a Taser gun or stun gun); device designed to discharge an object (including, but not limited to, a BB gun, air/CO2 gun, pellet gun, potato gun, paintball gun, or slingshot), excluding water guns; dangerous chemical (including, but not limited to, tear gas or oleoresin capsicum), explosive or explosive device, including a substance or combination of substances possessed or prepared for producing a visible or audible effect by combustion, explosion, deflagration or detonation (including, but not limited to, a bomb, grenade, or firework); martial arts weapon; bow and arrows; metal knuckles; nightstick; blackjack; dirk; knife with a fixed blade longer than four (4) inches (not including an ordinary eating utensil); switchblade, dagger, and sword. The term "weapon" does not include an ordinary pocket knife that folds; an available over-the-counter chemical repellent for self-defense (including, but not limited to, mace); or an instrument used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.

SECTION 3. JURISDICTION AND APPLICATION

- (1) Jurisdiction. The Code applies to the conduct of a student that occurs on University-controlled property. With respect to conduct that does not occur on University-owned property, the University has the discretion to discipline a student for conduct in violation of the Code if the student's conduct adversely affects the interests of the University, including, without limitation, when the conduct:
 - (a) Occurs during or in connection with a University-affiliated activity, including, without limitation, an overseas study program, clinical or field placement, internship, or in- service experience;
 - (b) Consists of academic dishonesty or research misconduct;
 - (c) Is prohibited by local, state, or federal law;
 - (d) Involves another member of the University community; or
 - (e) Threatens, or indicates that the student may pose a threat to, the health or safety of the student or other person, or the security of any person's property, including,

without limitation, alcohol-related misconduct, drug-related misconduct, arson, battery, fraud, theft, hazing, participation in group violence, Sexual Harassment, and sexual exploitation.

- (2) **Time Period of Application to Students.** The Code applies to a student's conduct from the time the student applies for admission to the University through the entire time that the student is a candidate for and/or is awarded a degree from the University (even if a student's conduct which violates the Code is not discovered by the University until after the University awards a degree to the student). The Code applies to a student's conduct that occurs during the academic year, between semesters, and during periods between terms of actual enrollment at the University.
- (3) **Conduct Attributable to Student Organizations.** Each student organization is responsible for conduct fairly attributable to the student organization. A determination that conduct is fairly attributable to a student organization does not preclude holding student members of the student organization accountable for acts committed in relation to the student organization's conduct. The chief student officer of the student organization (e.g., president or equivalent) or his or her designee will serve as the representative of the student organization during any proceedings against the student organization under the Code. In determining whether misconduct in violation of the Code is fairly attributable to a student organization, the University will consider the following factors:
 - (a) Whether one (1) or more officers of the student organization had prior knowledge that the misconduct was reasonably likely to occur and failed to take reasonable preventative or corrective action, failed to attempt to stop known misconduct while it was occurring, and/or helped to plan, promote, or carry out the misconduct.
 - (b) Whether the misconduct occurred in connection with an activity: (i) financed by the student organization and/or one (1) or more members or alumni of the student organization who contributed personal funds in lieu of organizational funds; (ii) related to initiation into, admission into, affiliation with, or as a condition for continued membership in the student organization; and/or (iii) advertised, promoted, or publicized in such a way that a reasonable person viewing or hearing the advertisement, promotion, or publication would believe that the activity was affiliated with the student organization.
 - (c) Whether the misconduct occurred on property owned, controlled, rented, leased, and/or used by the student organization and/or any of its members or alumni acting on the student organization's behalf.
 - (d) Whether a member of the student organization attempted to conceal the activity connected with the misconduct or concealed the misconduct of another member of the student organization.
- (4) **Relation to Criminal and Civil Legal Proceedings.** The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of criminal and civil law. Accordingly, a Respondent may be charged with violating the Code for conduct that also constitutes a violation of criminal or civil law without regard to whether criminal or civil legal proceedings have been initiated against the Respondent. Disciplinary action for student conduct in violation of the Code may be carried

- out prior to, simultaneously with, or following criminal or civil proceedings regarding the same conduct. A Respondent charged with violating the Code may not challenge University proceedings in the student conduct process on the grounds that a criminal or civil legal proceeding (or another University proceeding) regarding the same misconduct is pending or has been dismissed, or otherwise that criminal charges or civil claims regarding the same misconduct have been adjudicated, settled and/or reduced. When appropriate, the University may refer student conduct matters involving violations of the law to federal, state, or local authorities for prosecution.
- (5) **Misconduct Not Excused by Intoxication or Impairment.** The intoxication or impairment of a student by alcohol, drugs, or other substances will not diminish or excuse any conduct in violation of the Code that the student commits while intoxicated or impaired, except as provided under Section 16 of this Chapter.
 - (6) **Concurrent Honor Code and Non-Honor Code Violations of the Code.** Notwithstanding anything in this Chapter to the contrary, allegations of violations of Section 4(1) of this Chapter will be resolved in accordance with the Honor Code procedures under Chapter 1720-02-01. In cases involving allegations of both Honor Code violations and non-Honor Code violations of the Code, the alleged Honor Code violations will be resolved in accordance with the Honor Code procedures under Chapter 1720-02-01 separately from resolution of the alleged non-Honor Code violations, which will be resolved pursuant to the Code procedures under this Chapter. In such cases, disciplinary sanctions may be issued against the Respondent for any Honor Code violations separate from and additional to disciplinary sanctions issued for any non-Honor Code violations of the Code.
 - (7) **Violations of Professional Standards or Ethics.** Graduate or professional programs within the University may take separate and independent action against students for alleged violations of professional and/or ethical standards using procedures other than those contained in the Code.
 - (8) **Effect on Coursework.** Coursework performed by a Respondent during the student conduct process will be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a finding of a Code violation and/or disciplinary sanctions imposed against the Respondent under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree or diploma may be imposed, or a degree that is awarded prior to a decision under the Code may be revoked.
 - (9) **Withdrawal During the Student Conduct Process.** If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, the Office of Student Conduct retains the right to investigate and resolve the allegations against the Respondent as a condition of the Respondent being allowed to re-enroll in the University. A Disciplinary Hold on the Respondent's record, as provided under Section 14(2) of this Chapter, may be implemented or remain in place after the Respondent withdraws in order to enforce this Section 3(9).
 - (10) **Time Extensions and Rescheduling.** Any time period specified under the Code may be extended for good cause at the discretion of the Office of Student Conduct. Any hearing or meeting described in the Code may be rescheduled for good cause at the discretion of the Office of Student Conduct.

SECTION 4. STANDARDS OF CONDUCT

All students are prohibited from engaging in the following:

- (1) **Academic Dishonesty/Honor Code Violation:** Cheating, plagiarism, or any other act of academic dishonesty, including, but not limited to, an act in violation of the Honor Code.
- (2) **Providing False Information:** Providing false information to a University official.
- (3) **Misuse of Information in Connection with a University Investigation or Hearing:** Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing, except for the withholding of information as provided under Section 5(1)(d) and Section 5(2)(c) of this Chapter.
- (4) **Misuse of Records, Identification, and/or Documents:** Forging, altering, destroying, falsifying, or misusing records, identification, or documents, whether in print or electronic form.
- (5) **Harm and/or Endangerment:** Causing physical harm to any person, including oneself; endangering the health, safety, or welfare of any person, including oneself; engaging in conduct that causes a reasonable person to fear harm to his or her health, safety, or welfare; or making an oral or written statement that a reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- (6) **Harassment:** Unwelcome conduct directed toward another person that is discriminatory on a basis prohibited by federal, state, or local law, and that is determined by a reasonable person to be so severe, pervasive, and objectively offensive, that it effectively bars the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution including, but not limited to, mere insulting or offensive speech. Notwithstanding any provisions in this Section 4(6) to the contrary, harassment based on sex, including Sexual Harassment, shall constitute conduct as defined under Section 2(20) of this Chapter in accordance with the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.
- (7) **Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and/or Retaliation:** Engaging in conduct prohibited by the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, including sexual exploitation and retaliation.
- (8) **Invasion of Privacy:** Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, but not limited to, by using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in a shower, locker rooms or restrooms. The storing, sharing, and/or distributing of such unauthorized recordings by any means is also prohibited.
- (9) **Theft, Misappropriation and/or Unauthorized Possession/Sale:** Theft, misappropriation, unauthorized possession, or unauthorized sale of private or public property, including but not limited to, University-controlled property.

- (10) **Vandalism:** Vandalizing, destroying, damaging, engaging in conduct that reasonably could cause damage to, or misusing private or public property, including but not limited to, University-controlled property.
- (11) **Hazing:** Any intentional or reckless act on or off University-controlled property by one (1) student, acting alone or with others that is directed against any other student, that endangers the mental or physical health, safety, or welfare of that student, or that induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.
- (12) **Disorderly Conduct:** Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (13) **Lewd, Indecent, or Obscene Conduct:** Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (14) **Imminent Lawless Action:** Engaging in speech, either orally or in writing, that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (15) **Arson and/or Fire Safety:** Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (16) **Unauthorized Possession and/or Access to University Property:** Possessing, using, or duplicating University keys, access cards, parking permits, or identification cards without authorization; or possessing, using, or entering University-controlled property without authorization.
- (17) **Misuse of University Information and/or Technology:** Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, but not limited to: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff employee, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's rules or policies on the acceptable use of information technology resources.
- (18) **Unauthorized Use of Weapons and Related Misconduct:** Possessing, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police (or his or her

- designee) of the University Police Department or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (19) **Alcohol-Related Misconduct:** Consuming, manufacturing, possessing, distributing, dispensing, or selling alcohol or alcohol paraphernalia, or being under the influence of alcohol, on University-controlled property or in connection with a University-affiliated activity, unless expressly permitted by University rules or policy.
 - (20) **Violation of Federal, State, or Local Alcohol Laws:** Consuming, manufacturing, possessing, distributing, dispensing, or selling alcohol or alcohol paraphernalia, or being under the influence of alcohol, if prohibited by federal, state, or local law.
 - (21) **Providing Alcohol to Minors:** Providing alcohol to a person younger than twenty-one (21) years of age, unless permitted by law.
 - (22) **Drug-Related Misconduct:** Using, manufacturing, possessing, distributing, selling, or dispensing drugs or drug paraphernalia, or being under the influence of drugs, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription is not issued to the student using or in possession of the prescription drug; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
 - (23) **Obstruction or Disruption of University Activities:** Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
 - (24) **Failure to Comply with University Request or Directive:** Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University official or other public official acting within the scope of his or her duties, except as provided under Section 5(1)(d) and Section 5(2)(c) of this Chapter; or failing to identify oneself to a University official or other public official acting within the scope of his or her duties when requested to do so.
 - (25) **Failure to Pay Financial Obligation:** Failing to pay a bill, account, or other financial obligation to the University.
 - (26) **Failure to Appear at Hearing:** Failing to appear at a University hearing, including, but not limited to, a Formal Hearing or a hearing related to alleged violations of the Honor Code, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
 - (27) **Retaliation:** Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. Retaliation violates the Code regardless of whether or not the underlying allegation of a violation of the Code is ultimately found to have merit. Retaliation can include, without limitation: (i) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably

- expected to provide information in connection with a University investigation or hearing; and
(ii) an act or omission committed by a student through a third party.
- (28) **Violation of Housing & Residence Life Policies:** Violating any obligations under a University Housing & Residence Life contract for University residential housing and/or any policies under the Housing & Residence Life Student Handbook.
- (29) **Violation of Other University Rule, Policy, or Procedure:** Violating any University rule, policy, or procedure other than the Code, including, without limitation, University rules or policies relating to use of University facilities, smoking, the acceptable use of information technology resources, research misconduct, University libraries, dining services, parking or transportation, University identification card use, and registered student organizations.
- (30) **Violation of Federal, State, or Local Law:** Committing an act that is prohibited by federal, state, or local laws, regulations, and/or ordinances.
- (31) **Attempt to Commit or Accessory to a Violation:** Attempting to commit a violation of a Standard of Conduct set forth under this Section 4 or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct set forth under this Section 4.
- (32) **Violation of University Action:** Violating the terms of an interim action under Section 14 of this Chapter (including, but not limited to, a no-contact directive, interim restriction, or interim suspension); Behavioral Agreement; Resolution Agreement, Alternative Resolution Agreement, Informal Resolution, disciplinary sanction; or restriction, sanction, or condition of enrollment or re- enrollment imposed by the University.

SECTION 5. DUE PROCESS RIGHTS AND CONFLICTS OF INTEREST

- (1) Rights of the Respondent.

A Respondent will have the following rights during the student conduct process:

- (a) The right to a prompt, thorough, and equitable investigation.
- (b) The right to meet with the Office of Student Conduct to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation.
- (c) The right to be informed of all alleged Code violation(s) or charges in writing. The date, time, and place of occurrence of the alleged Code violation(s) will be stated in the written notice.
- (d) The right to remain silent in any investigation, meeting, or hearing.
- (e) The right to a fair and equitable hearing.
- (f) The right to the initial presumption that the Respondent is not responsible for the alleged Code violation(s).
- (g) The right to receive notice of hearings at which the Respondent may be present.
- (h) The right to access any information or documents that will be used during a hearing, unless prohibited by law, and in a Title IX Hearing, the right to access and refer to

any evidence obtained as part of the investigation that is directly related to the Title IX Allegations.

- (i) The right to challenge, for good cause, the fairness and/or impartiality of any Hearing Officer, Student Conduct Board Chairperson, Student Conduct Board member, Title IX Hearing Officer, or UAPA Administrative Judge. The Vice Chancellor for Student Affairs (or his or her designee) will decide on challenges to Hearing Officers, Student Conduct Board Chairpersons, or Title IX Hearing Officers. The Student Conduct Board Chairperson will decide on challenges to Student Conduct Board members. Challenges to UAPA Administrative Judges will be decided according to the UAPA Hearing procedures under Chapter 1720-01-05.
 - (j) The right to challenge all charges and testimony against the Respondent; to present witnesses and other evidence; and to challenge the admissibility or relevance of evidence.
 - (k) The right not to be questioned directly by the Complainant during a hearing, unless otherwise provided by federal or state law.
 - (l) The right to be informed in writing of the decision of the decision-maker in a case, and if applicable, the proper procedure for appealing the decision.
 - (m) The right to appeal the decision of the decision-maker in a Hearing Officer Hearing, Student Conduct Board Hearing, Title IX Hearing, or UAPA Hearing.
 - (n) The right to be assisted by an advisor during all stages of the student conduct process in accordance with Section 5(3) of this Chapter.
- (2) Rights of the Complainant.

A Complainant will have the following equivalent rights granted to a Respondent during the student conduct process, unless otherwise provided by federal or state law:

- (a) The right to a prompt, thorough, and equitable investigation.
- (b) The right to meet with the Office of Student Conduct to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation.
- (c) The right to remain silent in any investigation, meeting, or hearing.
- (d) The right to receive notice of any hearings at which the Complainant may be present.
- (e) The right to access any information or documents that may be used during a hearing, unless prohibited by law, and in a Title IX Hearing, the right to access and refer to any evidence obtained as part of the investigation that is directly related to the Title IX Allegations.
- (f) The right to challenge, for good cause, the fairness and/or impartiality of any Hearing Officer, Student Conduct Chairperson, Student Conduct Board member, Title IX Hearing Officer, or UAPA Administrative Judge. The Vice Chancellor for Student Affairs (or his or her designee) will decide on challenges to Hearing Officers, Student Conduct Board Chairpersons, or Title IX Hearing Officers. The Student Conduct

Board Chairperson will decide on challenges to Student Conduct Board members. Challenges to UAPA Administrative Judges will be decided according to the UAPA Hearing procedures under Chapter 1720-01-05.

- (g) The right to challenge all testimony against the Complainant; to present witnesses and other evidence; and to challenge the admissibility or relevance of evidence.
 - (h) The right not to be questioned directly by the Respondent during a hearing, unless otherwise provided by federal or state law.
 - (i) The right to be informed in writing of the decision of the decision-maker in a case, and if applicable, the proper procedure for appealing the decision.
 - (j) If applicable and where provided by law or University rules or policy, the right to appeal the decision of the decision-maker in a Hearing Officer Hearing, Student Conduct Board Hearing, Title IX Hearing or UAPA Hearing.
 - (k) The right to be assisted by an advisor during all stages of the student conduct process in accordance with Section 5(3) of this Chapter.
- (3) Right to an Advisor.
- (a) The Complainant and the Respondent each may choose to be assisted by one (1) advisor during all stages of the student conduct process.
 - (b) The University encourages a Complainant or Respondent who chooses to be assisted by an advisor to consider selecting a University employee who has received training about the student conduct process from the Office of Student Conduct. The Complainant and the Respondent may obtain the names of trained advisors from the Office of Student Conduct. At their own expense, the Complainant and the Respondent may choose a person who is not employed by the University to serve as an advisor. That person may be, but is not required to be, an attorney. The Complainant and the Respondent should select as an advisor a person whose schedule allows attendance at the scheduled date, time, and place for meetings and hearings, as delays will generally not be granted due to the scheduling conflicts of an advisor. If a Complainant or Respondent does not have an advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party.
 - (c) The role of an advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent, appear in lieu of a Complainant or Respondent, participate as a witness, or participate directly in any other manner during any phase of the student conduct process, except that an advisor in a Title IX Hearing is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses, in accordance with Section 10 of this Chapter. In a UAPA Hearing, the Complainant and the Respondent are entitled to be represented by legal counsel at their own expense, and in accordance with state law.

- (4) Restrictions on Participation Imposed by Law. Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section 5, a Complainant will not have the right to attend a meeting or hearing, receive information concerning a case, or otherwise participate in the student conduct case, if such attendance, receipt of information, or participation would violate federal or state law.
- (5) Rights in Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and/or Retaliation Cases. Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section 5, in cases involving alleged violations of Standard of Conduct 7 under Section 4(7) of this Chapter, the Complainant and Respondent will have the rights outlined in this Section 5 and any additional rights granted in the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules, in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable laws.
- (6) Conflicts of Interest.
 - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias consistent with due process of law.
 - (b) In all cases involving alleged conduct that violates the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of Tenn. Code Ann. § 4-5-303. Notwithstanding the preceding sentence: (i) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the student conduct process; and (ii) the University is allowed to provide the Complainant with equivalent rights as the Respondent during the student conduct process.

SECTION 6. STUDENT CONDUCT PROCESS – INITIAL AND PRE-RESOLUTION STAGES

- (1) Initiation of the Student Conduct Process.
 - (a) The University may initiate the student conduct process on the basis of written allegations received from any source including, without limitation, students, faculty members, staff employees, or law enforcement agencies. The University may also initiate the student conduct process in the absence of written allegations if the University becomes aware, through other means, of potential Code violations committed by a student. Notwithstanding any provisions of this Section 6(1)(a) to the contrary, the student conduct process for cases involving alleged violations of Standard of Conduct 7 under Section 4(7) of this Chapter is initiated in accordance with Section 6(1)(c).
 - (b) Upon receipt of written allegations or other information concerning potential Code violations, the Office of Student Conduct, on behalf of the University, will review the information and determine whether or not to initiate the student conduct process. The Office of Student Conduct's determination of whether to initiate the student conduct process generally will be based on: (i) a preliminary investigation by the Office of

Student Conduct or other University official(s) into the allegations or information received; (ii) a determination of whether the alleged conduct falls within the jurisdiction of the Code; and (iii) a determination of whether the alleged conduct, if true, violated the Code.

- (c) Notwithstanding any provisions in this Section 6(1) to the contrary, in cases involving alleged violations of Standard of Conduct 7 under Section 4(7) of this Chapter, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, the Office of Student Conduct will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (i) notice of the student conduct process that applies to the allegations; (ii) the identities of the parties involved in the incident; (iii) the conduct allegedly constituting the violation; (iv) the date and location of the incident, if known; (v) a statement that the Respondent is presumed not responsible for the alleged conduct; (vi) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (vii) the parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney; (viii) the parties' right to inspect and review evidence; and (ix) notice of the provisions of the Code that prohibit providing false information to a University official. In cases involving alleged violations of Standard of Conduct 7 under Section 4(7) of this Chapter, a Notice of Receipt of Formal Complaint shall be provided to the parties in lieu of the Respondent being provided a Notice of Allegations under Section 6(2).

(2) Notice of Allegations.

- (a) If the Office of Student Conduct determines to initiate the student conduct process, it will provide a Notice of Allegations to the Respondent.
- (b) The Notice of Allegations will:
1. Inform the Respondent that the University has received allegations that the Respondent has violated the Code and that the University has begun or will begin an investigation of the alleged violations;
 2. Provide a brief description of the alleged Code violation(s);
 3. Notify the Respondent of his or her right to be assisted and/or supported by an advisor at all stages of the student conduct process;
 4. Instruct the Respondent to contact the Office of Student Conduct within five (5) business days of the effective date of the notice to schedule a Preliminary Meeting as provided under Section 6(3) of this Chapter;
 5. Inform the Respondent of the consequences for failure to schedule or appear at a Preliminary Meeting, as provided under Section 6(3) of this Chapter; and
 6. Advise the Respondent to review the Code for information about the student conduct process.

- (c) Notwithstanding any provisions of this Section 6(2) to the contrary, in cases which a Formal Complaint is filed alleging violations of Standard of Conduct 7 under Section 4(7) of this Chapter, a Notice of Receipt of Formal Complaint shall be provided to the Complainant and Respondent as provided under Section 6(1)(c) in lieu of a Notice of Allegations being provided to the Respondent.
- (3) Preliminary Meeting.
- (a) Preliminary Meeting. After a Notice of Allegations is issued to a Respondent, a Hearing Officer, appointed by the Office of Student Conduct, will hold a Preliminary Meeting with the Respondent, unless the Respondent fails to schedule a Preliminary Meeting as provided under Section 6(3)(a) of this Chapter or fails to appear at a scheduled Preliminary Hearing as provided under Section 6(3)(b) of this Chapter. If the Respondent fails to contact the Office of Student Conduct within five (5) business days of the effective date of the Notice of Allegations to schedule the Preliminary Meeting, the Respondent waives his or her right to a Preliminary Meeting and the right to select the type of Formal Hearing for resolution of the allegations, unless the Respondent's failure to contact the Office of Student Conduct is excused by the Office of Student Conduct upon a showing of good cause. If the Respondent waives his or her right to a Preliminary Hearing as provided under this Section 6(3)(a) and the Hearing Officer determines that charges should be issued based on the information available, the Hearing Officer will select the type of Formal Hearing for resolution of the charge(s) and provide the Respondent with a Notice of Charges in accordance with Section 6(5) of this Chapter. Notwithstanding any provisions to the contrary in this Section 6(3)(a), in cases in which the Respondent has the right to a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only as provided under Section 7(1)(e) of this Chapter.
 - (b) Failure to Appear at Preliminary Meeting. If the Respondent fails to appear at a scheduled Preliminary Meeting, the Respondent waives his or her right to a Preliminary Meeting and the right to select the type of Formal Hearing for resolution of the allegations, unless the Respondent's failure to appear at the Preliminary Meeting is excused by the Office of Student Conduct upon a showing of good cause. If the Respondent waives his or her right to a Preliminary Hearing as provided under this Section 6(3)(b) and the Hearing Officer determines that charges should be issued based on the information available, the Hearing Officer will select the type of Formal Hearing for resolution of the charge(s) and provide the Respondent with a Notice of Charges in accordance with Section 6(5) of this Chapter. Notwithstanding any provisions to the contrary in this Section 6(3)(b), in cases in which the Respondent has the right to a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only as provided under Section 7(1)(e) of this Chapter.
 - (c) Appearance at Scheduled Preliminary Meeting. If the Respondent appears at a scheduled Preliminary Meeting, the Hearing Officer will conduct the Preliminary Meeting in the following general manner:
 - 1. The Hearing Officer will inform the Respondent of the allegations against the Respondent and the potential disciplinary sanction(s) that could be issued against the Respondent.

2. The Respondent may ask questions and seek clarification about the allegations and any other information regarding the student conduct process.
3. The Hearing Officer will provide the Respondent with an opportunity to respond to the allegations through various means, including, without limitation, the presentation of any information for consideration by the Office of Student Conduct and/or the identification of any witnesses the Respondent believes have relevant information.
4. If the Hearing Officer determines at the Preliminary Meeting that additional investigation is not needed and that charges should not be issued against the Respondent, the Preliminary Meeting will be concluded and the Hearing Officer will provide a Notice of Decision to the Respondent in accordance with Section 13(1) of this Chapter.
5. If the Hearing Officer determines at the Preliminary Meeting that no additional investigation is needed and that charges should be issued against the Respondent, the Hearing Officer will inform the Respondent of the determination, the proposed disciplinary sanction(s) to be issued, and the applicable options available for resolution of the charge(s) provided under Section 7 of this Chapter. The Respondent will then be provided the opportunity to state whether the Respondent wishes to accept responsibility for the charge(s) and the proposed disciplinary sanction(s), or contest the charge(s) and/or proposed disciplinary sanction(s) in a Formal Hearing.
 - (i) If the Respondent wishes to accept responsibility for the charge(s) and sanction(s), or otherwise not to contest the charge(s) and sanction(s) in a Formal Hearing, the Respondent may either:
 - I. Enter into a Resolution Agreement accepting responsibility for the charge(s) and sanction(s) in accordance with Section 7(2) of this Chapter; or
 - II. Sign a written waiver of Respondent's right to contest the charge(s) and sanction(s) in a Formal Hearing. In such case, the Hearing Officer will provide a Notice of Decision to the Respondent in accordance with Section 13(3) of this Chapter.
 - (ii) If the Respondent wishes to contest the charge(s) and/or the sanction(s) in a Formal Hearing, the Preliminary Meeting will be concluded and the Respondent will be issued a Notice of Charges in accordance with Section 6(5) of this Chapter, except as provided under Section 8(3) of this Chapter.
6. If the Hearing Officer determines at the Preliminary Meeting that additional investigation is needed before the Hearing Officer determines whether or not charges should be issued against the Respondent, the Preliminary Meeting will be concluded and the Office of Student Conduct will continue its investigation of the allegation(s).

- (d) The preceding provisions of this Section 6(3) do not apply to cases in which a Formal Complaint has been filed alleging violations of Standard of Conduct 7 under Section 4(7) of this Chapter. All Formal Complaints will be investigated by the Office of Student Conduct without any preliminary determinations as to whether investigation is needed or whether charges should be issued.
- (4) Investigations.
- (a) Investigations of alleged violations of the Code will be conducted by the Office of Student Conduct unless another person or organization is designated to serve as the investigator in accordance with University rules or policy.
 - (b) Investigations will be conducted in a prompt, thorough, ethical, and equitable manner.
 - (c) When conducting an investigation, the Office of Student Conduct (or other designated investigator) will act as a fair and impartial party rather than as a representative of the person, office, unit, or organization that submitted the allegations.
 - (d) During an investigation, the Complainant(s), the Respondent
 - (e) (s), witnesses, or any other persons may be interviewed, and other relevant information and documentation will be obtained as applicable. The Office of Student Conduct (or other designated investigator) is not obligated to interview a witness identified by the Complainant or the Respondent if the Office of Student Conduct (or other designated investigator) believes the witness is not likely to possess relevant information, the information from the witness is not likely to lead to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information already gathered. The Office of Student Conduct (or other designated investigator) may re-interview the Complainant(s), Respondent(s), witnesses, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information.
 - (f) Notwithstanding any provisions in this Section 6(4) to the contrary, in an investigation of a Formal Complaint alleging violations of Standard of Conduct 7 under Section 4(7) of this Chapter, the Office of Student Conduct will (i) ensure that the burden of proof and the burden of gathering evidence rests on the University and not on the parties; (ii) provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; and (iii) provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate.
 - (g) Notwithstanding any provisions in this Section 6(4) to the contrary, in an investigation of a Formal Complaint alleging violations of Standard of Conduct 7 under Section 4(7) of this Chapter, the Office of Student Conduct will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, the Office of Student

Conduct will send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties shall have at least ten (10) business days to submit a written response, which the Office of Student Conduct will consider prior to completion of the investigative report. After the investigative report is completed, the parties shall have at least ten (10) business days to submit a written response to the report, and no hearing shall occur until that 10-day response period has lapsed even if the parties have submitted responses prior to the expiration of the 10-day period.

(5) Notice of Charges.

- (a) If it is determined that a Respondent should be charged with violation of the Code, the Office of Student Conduct will provide the Respondent with a Notice of Charges, unless otherwise provided in this Chapter.
- (b) The Notice of Charges will include, without limitation, the following information:
 - 1. A description of the conduct the Respondent is charged with committing, the specific Code violation(s) charged with violating, and the recommended disciplinary sanctions;
 - 2. The types of Formal Hearings available for resolution of the charge(s);
 - 3. That, if the Respondent wishes to contest the charge(s) and/or proposed disciplinary sanction(s), the Respondent must request one (1) of the available Formal Hearing options in writing within five (5) business days of the effective date of the Notice of Charges or otherwise waives the right to contest the charge(s) in a Formal Hearing; and
 - 4. The Respondent's right to be assisted and/or supported by an advisor at all stages of the student conduct process. In cases in which the UAPA requires the University to offer the Respondent a UAPA Hearing, the notice shall notify the Respondent of his or her right to be assisted or represented by legal counsel if the Respondent decides to contest the charge(s) through a UAPA Hearing.
- (c) The preceding provisions of this Section 6(5) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations. All such Formal Complaints will proceed to a Title IX Hearing unless resolved through Informal Resolution, in accordance with Section 7(4) of this Chapter.

SECTION 7. STUDENT CONDUCT PROCESS – METHODS OF RESOLUTION

Charges or allegations of violations of the Code may be resolved in one (1) of the following ways:

- (1) Resolution by Formal Hearing. A Formal Hearing is a process for resolving charges of Code violations in which the Respondent is provided the opportunity to contest the charges through the presentation of evidence at a hearing (or, in a Title IX Hearing, for the parties to have a determination of responsibility made) before a fair and impartial decision-maker.
 - (a) Types of Formal Hearings. Charges may be resolved through one (1) of four (4) types of Formal Hearings, depending on the nature of the allegations and/or the gravity of the disciplinary sanctions proposed for the charge:

1. **Hearing Officer Hearing.** A hearing held before a Hearing Officer in accordance with Section 8 of this Chapter. A Hearing Officer Hearing will be offered in every case, except as provided in this Section 7(1)(a)1. Hearing Officer Hearings will not be held for resolution of allegations of violations of Standard of Conduct 7 under Section 4(7) of this Chapter.
 2. **Student Conduct Board Hearing.** A hearing held before a Student Conduct Board in accordance with Section 9 of this Chapter. A Student Conduct Board Hearing will be offered in every case.
 3. **Title IX Hearing.** A hearing before a Title IX Hearing Officer, in accordance with Section 10 of this Chapter. A Title IX Hearing is the only Formal Hearing provided under the Code for determining responsibility for Title IX Allegations.
 4. **UAPA Hearing.** A "contested case" hearing under the UAPA held before a UAPA Administrative Judge in accordance with Chapter 1720-01-05. A Respondent has the right to a UAPA Hearing only when the UAPA requires the University to offer a UAPA Hearing as determined by the gravity of the disciplinary sanction(s) proposed for the charge.
- (b) **Request for Formal Hearing.** In order to contest the charge(s) set forth in the Notice of Charges, the Respondent must request in writing a Formal Hearing and the selected type of Formal Hearing using the form(s) provided by the University within five (5) business days of the effective date of the Notice of Charges. A verbal request by the Respondent for a Formal Hearing or of the selected type of Formal Hearing will not constitute a valid request. By selecting a type of Formal Hearing, the Respondent waives the right to contest the charged Code violation(s) through another type of Formal Hearing. The preceding provisions of this Section 7(1)(b) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.
- (c) **Failure to Contest.** If the Respondent fails to request a Formal Hearing in writing within five (5) business days of the effective date of the Notice of Charges, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent as provided under Section 13(3) of this Chapter. Notwithstanding the foregoing provisions in this Section 7(1)(c), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Formal Hearing upon a showing of good cause by the Respondent for his or her failure to timely request a Formal Hearing. The preceding provisions of this Section 7(1)(c) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.
- (d) **Failure to Request Type of Formal Hearing.** If, within five (5) business days of the effective date of the Notice of Charges, the Respondent requests a Formal Hearing in writing but fails to request in writing the type of Formal Hearing, the Respondent waives the right to select the type of Formal Hearing for resolution of the charge(s), unless the Respondent's failure to select the type of Formal Hearing is excused by the Office of Student Conduct upon a showing of good cause. If the Respondent waives his or her right to select the type of Formal Hearing as provided under this Section 7(1)(d), the Office of Student Conduct will select the type of Formal Hearing and

will provide notice to the Respondent of the type of Formal Hearing selected and the date, time, and place of the hearing. The preceding provisions of this Section 7(1)(d) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.

- (e) Waiver of UAPA Hearing. Notwithstanding any provisions in this Chapter to the contrary, in a case in which the UAPA requires that the University offer the Respondent a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only if the Respondent: (i) fails to request a Formal Hearing in writing within five (5) business days of the effective date of the Notice of Charges; or (ii) executes a voluntary written waiver of his or her right to a UAPA Hearing. If the Respondent timely requests a Formal Hearing in writing, the University will conduct a UAPA Hearing to resolve the charge(s) unless the Respondent executes a voluntary written waiver of the Respondent's right to a UAPA Hearing.
 - (f) Emergency Ad Hoc Committee Hearing. When, in the judgment of the Chancellor, conditions are such that the functioning of a Hearing Officer Hearing or Student Conduct Board Hearing to resolve Code violation charges is impractical, the Vice Chancellor for Student Affairs may suspend the procedural rules for Hearing Officer Hearings and Student Conduct Board Hearings under this Chapter and appoint an ad hoc committee to hear a student conduct matter. Any such ad hoc committee will follow procedures that will insure the Respondent is provided due process. The decision of the ad hoc committee may be appealed in accordance with Section 12 of this Chapter as if the decision were issued by a Hearing Officer or Student Conduct Board. The preceding provisions of this Section 7(1)(f) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.
 - (g) All cases in which a Formal Complaint is filed alleging Title IX Allegations will proceed to a Title IX Hearing without either party having to elect the hearing.
- (2) Resolution by Resolution Agreement. At any time during the student conduct process, the Respondent may resolve charges of violations of the Code (other than Title IX Allegations) by entering into a Resolution Agreement with the University.
- (a) By signing a Resolution Agreement, the Respondent: (i) accepts responsibility for the Code violations indicated in the agreement; (ii) agrees to the imposition of the disciplinary sanctions indicated in the agreement; and (iii) waives all rights the Respondent may have to resolve the charges through a Formal Hearing.
 - (b) Subject to Section 7(2)(c) of this Chapter, a Resolution Agreement will not become binding and effective until it is signed by the Respondent and an authorized University official. A Respondent may not revoke or appeal a Resolution Agreement at any time after the Respondent signs the agreement.
 - (c) The Complainant will have the right in certain cases (where provided by law or University rules or policy) to appeal the terms of a Resolution Agreement. In such cases, the procedures under this Section 7(2)(c) will apply. In a case in which the Complainant has the right to appeal the terms of a Resolution Agreement and properly exercises such right, the agreement will not become binding and effective unless and until the issuance of a final decision on appeal upholding the agreement.

1. For a Resolution Agreement entered into between the Respondent and the University in any case in which the UAPA Hearing procedure has not been selected and initiated for resolution of the charge(s), the Office of Student Conduct will provide written notice to the Complainant of the agreement, and the Complainant may appeal the agreement in writing to the Vice Chancellor for Student Affairs within five (5) business days of the effective date of the notice of the agreement. The Vice Chancellor for Student Affairs must either uphold or reject the agreement in its entirety and provide notice of his or her decision to the Complainant and Respondent within ten (10) business days of receipt of the Complainant's appeal. If the Vice Chancellor for Student Affairs upholds the Resolution Agreement, the decision is final and the agreement will become effective and binding. If the Vice Chancellor for Student Affairs rejects the Resolution Agreement, the Office of Student Conduct will continue the student conduct process and resolve the charge(s) against the Respondent in accordance with the Code.
 2. For a Resolution Agreement entered into between the Respondent and the University in which the UAPA Hearing procedure has been selected and initiated for resolution of the charge(s), the availability of any appeal of the Resolution Agreement will be determined by the UAPA Administrative Judge under Chapter 1720-01-05.
- (d) Formal Complaints alleging Title IX Allegations may not be resolved through a Resolution Agreement but may be resolved through an Informal Resolution in accordance with Section 7(4).
- (3) Resolution by Alternative Resolution Agreement.
- (a) Proposal of Alternative Resolution. At any time during the student conduct process, allegations or charges of violations of the Code against the Respondent (other than Title IX Allegations) may be resolved through an Alternative Resolution Agreement. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. Before proposing an alternative resolution, the Office of Student Conduct shall determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and if so, what type of alternative resolution process should be used. Subject to Section 7(3)(c), in cases in which a Formal Complaint is filed alleging violations of Standard of Conduct 7 under Section 4(7) of this Chapter, the Title IX Coordinator will make that determination in consultation with the Office of Student Conduct. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). If an Alternative Resolution Agreement as defined under Section 7(3)(b) is not reached, then the Office of Student Conduct will continue the student conduct process and resolve the allegations or charges against the Respondent in accordance with the Code.
 - (b) Alternative Resolution Agreement. An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations or charges against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall in all cases be signed by the Office of Student Conduct

and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations or charges. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with the Office of Student Conduct in the discussion of an alternative resolution, then the Office of Student Conduct will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, the Office of Student Conduct may request the Complainant to sign the Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

- (c) Formal Complaints alleging Title IX Allegations may not be resolved through an Alternative Resolution Agreement but may be resolved through an Informal Resolution in accordance with Section 7(4).
- (4) Informal Resolution. In cases in which a Formal Complaint is filed alleging Title IX Allegations, at any time prior to reaching a determination regarding responsibility, the Office of Student Conduct may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, the Office of Student Conduct will (i) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (ii) obtain the parties' voluntary, written consent to the informal resolution process. At any prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.
- (5) Behavioral Agreement. In cases involving allegations of the Respondent engaging in behavior in the classroom or other areas of campus in violation of the Code, the Office of Student Conduct may request that the Respondent enter into a Behavioral Agreement to remediate and/or prevent recurrence of the alleged behavior. Under a Behavioral Agreement, the Respondent is allowed to continue participating in University programs and services with limited restrictions and/or conditions as provided under the agreement. Any violation of a Behavioral Agreement will be considered a violation of the Code and may result in disciplinary sanctions against the Respondent.

SECTION 8. HEARING OFFICER HEARINGS

A Hearing Officer Hearing is held before and conducted by a Hearing Officer. The Hearing Officer serves as the decision-maker in determining whether the Respondent is responsible for the charged Code violation(s) and the disciplinary sanction(s), if any, to be imposed.

- (1) Hearing Officer. A Hearing Officer is a University employee selected by the Office of Student Conduct. Hearing Officers are trained by the Office of Student Conduct to conduct Hearing Officer Hearings in accordance with the Code.
- (2) Fairness & Impartiality. The Hearing Officer will be fair and impartial, and any party to a Hearing Officer Hearing has the right to challenge the fairness or impartiality of the Hearing Officer. Any Hearing Officer lacking fairness or impartiality will recuse himself

or herself or may, for good cause and at the discretion of the Vice Chancellor for Student Affairs (or his or her designee), be removed from serving as Hearing Officer for the hearing.

- (3) Notice. If the Respondent timely requests a Hearing Officer Hearing in accordance with Section 7(1)(b) of this Chapter, the Hearing Officer will send the Respondent (and the Complainant, where provided by law or University rules or policy) notice of the time, place, and date of the hearing at least five (5) business days in advance of the date of the hearing. Notwithstanding any provisions in the Code to the contrary, including this Section 8(3), and except in cases involving a Complainant, if the Respondent requests at the Preliminary Meeting to hold a Hearing Officer Hearing immediately following the Preliminary Meeting, the Hearing Officer may agree to hold the hearing as requested. In such case, a Notice of Charges and a notice of hearing will not be provided to the Respondent.
- (4) Hearing Procedure. A Hearing Officer will conduct a Hearing Officer Hearing in accordance with the following general procedures and rules:
 - (a) The hearing will be closed to the public.
 - (b) The Hearing Officer will determine all procedural questions.
 - (c) The Respondent (and the Complainant in certain cases, as provided by law or University rules or policy) will be considered a party to the proceeding.
 - (d) Each party (and their respective advisors, if any) will be allowed to attend the portion of the hearing during which questioning is conducted and information is received by the Hearing Officer.
 - (e) Each party will be afforded a full and fair opportunity to present all evidence, including witness testimony, that reasonably relates to the charge or action at issue.
 - (f) The Hearing Officer may limit the presentation of evidence which is irrelevant or unreasonably repetitious or voluminous.
 - (g) The Hearing Officer will consider all evidence presented and give due consideration to the credibility or weight of the information presented. Technical rules of evidence, such as evidentiary rules applicable to civil or criminal court proceedings, will not apply.
 - (h) The Hearing Officer will apply the preponderance of the evidence standard in determining whether or not the Respondent is responsible for the charged Code violation(s).
 - (i) An appropriate record of the hearing proceedings will be made. An audio or video record may be made of the hearing. Defects in the record will not invalidate the proceedings.
 - (j) Following the conclusion of the hearing, the Hearing Officer will provide each party with a Notice of Decision setting forth the Hearing Officer's decision on

responsibility and, if applicable, the disciplinary sanctions to be issued against the Respondent and their effective date.

- (5) **Multiple Respondents.** In cases involving more than one (1) Respondent, the Hearing Officer has the discretion to hold one (1) hearing for all of the Respondents or separate hearings for each Respondent. Any Respondent may, prior to the hearing, request that his or her hearing be conducted separately from the other Respondent(s). Such a request must be made in writing to the Hearing Officer using the form(s) provided by the University. The Hearing Officer will decide whether or not to grant such a request, and the Hearing Officer's decision will be final.
- (6) **Failure to Appear.** If proper notice of the Hearing Officer Hearing is provided to the Respondent in accordance with Section 8(3) of this Chapter but the Respondent fails to appear at the hearing, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent in accordance with Section 13(3) of this Chapter. Notwithstanding the provisions of this Section 8(6), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Hearing Officer Hearing upon a showing of good cause by the Respondent for his or her failure to appear.
- (7) **Prohibition of Complainant's Participation.** Notwithstanding any provisions of the Code to the contrary, including, without limitation, in this Section 8, a Complainant or other student not designated as a Respondent will not have the right to attend or participate in a Hearing Officer Hearing or otherwise receive information concerning the hearing if such attendance, participation, or receipt of information would violate federal or state law.
- (8) **Appeal.** The decision of the Hearing Officer may be appealed to the Vice Chancellor for Student Affairs in accordance with Section 12 of this Chapter.

SECTION 9. STUDENT CONDUCT BOARD HEARINGS

A Student Conduct Board Hearing is held before a Student Conduct Board and chaired by a Student Conduct Board Chairperson. The Student Conduct Board serves as the decision-maker in determining whether the Respondent is responsible for the charged Code violation(s) and the disciplinary sanction(s), if any, to be imposed.

- (1) **Student Conduct Board Chairperson.** The Student Conduct Chairperson is appointed by the Office of the Dean of Students (or designee) to preside over and facilitate a Student Conduct Board Hearing to ensure that the hearing is conducted in accordance with the Code. Except as provided under Section 9(7)(j) of this Chapter, the Student Conduct Board Chairperson will not vote on the issues to be decided by the Student Conduct Board. The Student Conduct Board Chairperson will be a University employee trained by the Office of Student Conduct on the procedures for conducting a Student Conduct Board Hearing in accordance with the Code.
- (2) **Student Conduct Board.** The Student Conduct Board is a panel of appointed students, faculty, and staff, that serves as the decision-maker for the hearing.
 - (a) For each Student Conduct Board Hearing, the Office of the Dean of Students (or designee) will appoint members to serve on the Student Conduct Board from an annually-selected pool of qualified students, faculty members, and staff employees.

In order to be qualified for the pool, a student, faculty member, or staff employee must be in good standing with the University. All persons appointed to serve on the board will be trained by the Office of Student Conduct (or other University officials) on their duties and responsibilities as board members under the Code.

- (b) The Student Conduct Board empaneled ad hoc for each hearing from the pool described under Section 9(2)(a) of this Chapter will consist of one (1) Student Conduct Board Chairperson and six (6) voting members, with at least one (1) voting student and one (1) voting faculty member or staff employee, unless otherwise provided under Section 9(2)(b)1. and Section 9(2)(b)2. of this Chapter.
 1. A hearing may be held before a Student Conduct Board consisting of less than six (6) voting members with the consent of the Respondent (and the Complainant in certain cases as provided by law or University rules or policy).
 2. In cases involving charges of violations of Standard of Conduct 7 under Section 4(7) of this Chapter which do not involve Title IX Allegations, the Office of the Dean of Students (or designee) will not appoint students to serve on the Student Conduct Board unless both the Complainant and Respondent consent to having students appointed to serve on the Student Conduct Board Hearing for their case.
- (3) Fairness & Impartiality. The Student Conduct Board members, including the Student Conduct Board Chairperson, will be fair and impartial. Any party to a Student Conduct Board Hearing will have the right to challenge the fairness or impartiality of the Student Conduct Board Chairperson or any voting member of the Student Conduct Board. Any voting member of the Student Conduct Board lacking fairness or impartiality will recuse himself or herself, or for good cause and at the Student Conduct Board Chairperson's discretion, be removed from the board. Any Student Conduct Board Chairperson lacking fairness or impartiality will recuse himself or herself, or for good cause and at the discretion of the Vice Chancellor of Student Affairs (or his or her designee), be removed from presiding over the hearing.
- (4) Notice. If the Respondent timely requests a Student Conduct Board Hearing in accordance with Section 7(1)(b) of this Chapter, the Office of Student Conduct will provide the Respondent (and the Complainant in certain cases, where provided by law or University rules or policy) with notice of the time, place, and date of the hearing at least five (5) business days in advance of the date of the hearing.
 - (a) In cases involving charges of violations of Standard of Conduct 7 under Section 4(7) which do not involve Title IX Allegations, at least five (5) business days in advance of the date of the hearing, the Office of Student Conduct will provide the Respondent with notice of the following additional information:
 1. The name of each witness the University expects to present at the hearing or may present if the need arises;
 2. The Respondent's right to request a copy of the Office of Student Conduct's investigative file, redacted in accordance with the Family Educational Rights

and Privacy Act of 1974 (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and

3. The Respondent's right to request copies of all documents, copies of all electronically-stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
- (5) Pre-Hearing Submissions from Parties. At least five (5) business days in advance of the date of the hearing, the Respondent (and the Complainant, where provided by law or University rules or policy), must provide the following information to the Office of Student Conduct:
 - (a) The names of all witnesses the party plans to present to the Student Conduct Board and a brief summary of the information that the party reasonably anticipates each witness to provide.
 - (b) A copy of all tangible or electronic information that the party plans to present to the Student Conduct Board (including, but not limited to, witness statements, video or audio recordings, photographs, e-mails, text messages, telephone records, medical bills, demonstrative exhibits, etc.). The party is not required to provide actual items of physical evidence (including, but not limited to, a weapon or article of clothing), but instead may provide photographs of such items.
 - (c) A copy of a written statement, if any, that the party wants the Student Conduct Board to consider. A Complainant's statement may include a description of the impact of the Respondent's alleged conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigate the alleged Code violation(s) or proposed disciplinary sanction(s).
 - (6) Pre-Hearing Review of Information. After notice of the Student Conduct Board Hearing is provided to the Respondent (and the Complainant, where provided by law or University rules or policy) in accordance with Section 9(4) of this Chapter, the Office of Student Conduct will make available to each party the materials submitted by each party and the University upon the request of a party. Notwithstanding any provision to the contrary in this Section 9(6), no less than one (1) business day prior to the hearing, the Office of Student Conduct will make the materials submitted by each party and the University available for review by each party and their respective advisors, the Student Conduct Board Chairperson, and the voting members of the Student Conduct Board. The Office of Student Conduct will notify each party, the Student Conduct Board Chairperson, and the voting members of the Student Conduct Board when the materials are ready for review in the Office of Student Conduct or when the materials will be sent to them electronically. The Office of Student Conduct may redact irrelevant and/or protected information from any materials made available for review.
 - (7) Hearing Procedure. The Student Conduct Board Chairperson will conduct a Student Conduct Board Hearing in accordance with the following general procedures and rules:
 - (a) The hearing will be closed to the public.
 - (b) The Student Conduct Board Chairperson will determine all procedural questions. The Student Conduct Board Chairperson may be assisted by a procedural advisor appointed by the Office of Student Conduct.

- (c) The Respondent (and the Complainant in certain cases, where provided by law or University rules or policy) will be considered a party to the proceeding.
 - (d) Each party and their respective advisors will be allowed to attend the portion of the hearing during which questioning is conducted and information is received from the parties or the University. The parties (and their advisors) will not be allowed to attend the portion of the hearing during which deliberations by the Student Conduct Board occur.
 - (e) Each party will be afforded a full and fair opportunity to present an opening statement, any evidence, including witness testimony, that reasonably relates to the charge or action at issue, and a closing statement.
 - (f) The Student Conduct Board Chairperson may bar or limit the presentation of evidence which is not provided to the Office of Student Conduct in advance of the hearing in accordance with Section 9(5) of this Chapter, or which (i) is irrelevant, (ii) unreasonably repetitious or voluminous; or (iii) protected from disclosure under federal, state, or local law.
 - (g) The Student Conduct Board will consider all evidence presented and give due consideration to the credibility or weight of the information presented. Technical rules of evidence, such as evidentiary rules applicable to civil or criminal court proceedings, will not apply.
 - (h) The Student Conduct Board will apply the preponderance of the evidence standard in determining whether or not the Respondent is responsible for the charged Code violation(s).
 - (i) An appropriate record of the hearing proceedings will be made. An audio or video record will be made of the hearing, except for the portion of the hearing in which the Student Conduct Board deliberates and votes on its decision. Defects in the record will not invalidate the proceedings.
 - (j) After all information for consideration has been presented to the Student Conduct Board, the parties (and their advisors, if any) will be excused, and the members of the Student Conduct Board will deliberate and vote on the following issues: (i) whether the Respondent is responsible for the charged Code violation(s) and (ii) the disciplinary sanctions, if any, to be issued. The decision of the board on each issue will be made by simple majority of the voting members' votes. In the event of a tie-vote among the voting members, the Student Conduct Board Chairperson will cast the tie-breaking vote.
 - (k) At the conclusion of the hearing, the Student Conduct Board Chairperson will provide each party with a Notice of Decision setting forth the Student Conduct Board's decision on responsibility and, if applicable, the disciplinary sanctions to be issued against the Respondent and their effective date.
- (8) Multiple Respondents. In cases involving more than one (1) Respondent, the Student Conduct Board Chairperson has the discretion to hold one (1) hearing for all of the Respondents or separate hearings for each Respondent. Any Respondent may, prior to the hearing, request that his or her hearing be conducted separately from the other Respondents' hearings. Such a

- request must be made in writing to the Student Conduct Board Chairperson using the form(s) provided by the University. The Student Conduct Board Chairperson will decide whether or not to grant such a request, and the Student Conduct Board Chairperson's decision will be final.
- (9) **Failure to Appear.** If proper notice of the Student Conduct Board Hearing is provided to the Respondent in accordance with Section 9(4) of this Chapter but the Respondent fails to appear at the hearing, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent in accordance with Section 13(3) of this Chapter. Notwithstanding the foregoing provisions of this Section 9(9), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Student Conduct Board Hearing upon a showing of good cause by the Respondent for his or her failure to appear.
 - (10) **Prohibition of Complainant's Participation.** Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section 9, a Complainant or other student not designated as a Respondent will not have the right to attend or participate in a Student Conduct Board Hearing or otherwise receive information concerning the hearing if such attendance, participation, or receipt of information would violate federal or state law.
 - (11) **Appeal.** The decision of the Student Conduct Board may be appealed to the Vice Chancellor for Student Affairs in accordance with Section 12 of this Chapter.

SECTION 10. TITLE IX HEARINGS

- (1) **The Title IX Hearing.** Any case involving Title IX Allegations will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.
- (2) **The Title IX Hearing Officer.** The Vice Chancellor for Student Affairs will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Office of Student Conduct. Any objection must be received within three (3) days of the notice of appointment, and it must state the party's grounds for objecting. The Vice Chancellor for Student Affairs will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Vice Chancellor for Student Affairs will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing.
- (3) **Notice of Title IX Hearing.**
 - (a) **When a Notice of Title IX Hearing is Sent.** The Office of Student Conduct will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
 - (b) **Information in the Notice of Title IX Hearing.** The Notice of Title IX Hearing will contain, or be accompanied by, the following information: (i) the date, time, and place of the Title IX Hearing; (ii) notice of the right to have an advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an advisor present at the hearing, the University must provide an advisor of

the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; (iii) notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and (iv) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.

- (c) **More than One Respondent.** In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. The Office of Student Conduct has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.
 - (d) **Consequences of Failing to Attend a Title IX Hearing.** If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.
- (4) **General Rules Governing Title IX Hearings.**
- (a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.
 - (b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing; the location of the hearing; any technology to be used at the hearing; the general rules governing the hearing, including any rules of decorum; the identification of witnesses; and the availability of evidence at the hearing.
 - (c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's advisor, if any, or that the party does not have an advisor so that the University can provide an advisor.
 - (d) At the request of either party, the Office of Student Conduct will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness(es) answering questions.
 - (e) Upon request of a party and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses at the Title IX Hearing who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.
- (5) **Procedural Rules for Title IX Hearings.**
- (a) **Authority of the Title IX Hearing Officer.** The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and

expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision-maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

- (b) Exclusion of Information.
 - 1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
 - 2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
 - 3. The University cannot not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- (c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University policy or policies allegedly violated.
- (d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from the Office of Student Conduct, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and the Office of Student Conduct have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
- (e) Opening Statements. The Complainant and then the Respondent may make a brief opening statement of no longer than ten (10) minutes to the Title IX Hearing Officer, and they may provide a written copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.
- (f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions,

including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Notwithstanding any provisions in this Section 10(5)(f) to the contrary, alleged verbal conduct by a Respondent that constitutes any part of the alleged Sexual Harassment at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if Respondent does not submit to cross-examination during the Title IX Hearing.

- (g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.
- (6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript, of the hearing and make it available to the parties for inspection and review.
- (7) Notice of Decision. Within fifteen (15) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision"). The Notice of Decision must include (i) identification of the allegations potentially constituting Sexual Harassment; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iii) findings of fact supporting the determination; (iv) conclusions regarding the application of the Code to the facts; (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (vi) the procedures and permissible bases for the Complainant and Respondent to appeal.

If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness, in deciding the appropriate sanctions for the Respondent's misconduct.

The Title IX Hearing Officer shall transmit a copy of the Notice of Decision to the Office of Student Conduct. The Office of Student Conduct shall notify the Respondent, the Complainant, and their advisors about the written determination and provide a copy of it simultaneously to the parties and their advisors.

- (8) Appeal. The decision of the Title IX Hearing Officer may be appealed to the Vice Chancellor for Student Affairs in accordance with Section 13 of this Chapter.

SECTION 11. DISCIPLINARY SANCTIONS

- (1) Disciplinary sanctions are primarily intended to: (i) educate Respondents about appropriate behavior; (ii) encourage Respondents to take responsibility for Code violation(s); (iii) encourage and promote the personal and professional development of Respondents; (iv) discourage other students from violating the Code; and/or (v) protect members of the University community.
- (2) The disciplinary sanctions imposed on a Respondent should be appropriate for the particular case based on the gravity of the Code violation, including, without limitation, how the violation affected or reasonably could have affected other members of the University community. Consideration also may be given to other aggravating or mitigating factors, including, without limitation: (i) the Respondent's student conduct record; (ii) whether the Respondent committed the violation while acting in self-defense; (iii) the Respondent's responsiveness to the student conduct process; and (iv) the Respondent's academic classification.
- (3) The following disciplinary sanctions may be imposed on a student (excluding student organizations) found to have violated the Code:
 - (a) **Disciplinary Reprimand.** A disciplinary reprimand is a written warning that informs a Respondent that the Respondent is violating or has violated the Code and must cease and desist from engaging in the misconduct and/or prevent the misconduct from occurring again. A disciplinary reprimand will also inform the Respondent that any further violations of the Code may result in the imposition of more severe sanctions.
 - (b) **Loss or Restriction of Privileges.** The University may impose a loss and/or restriction of privileges on a Respondent. Privileges that may be lost and/or restricted include, without limitation, the following: (i) scholarships; (ii) stipends; (iii) participation in co- curricular and/or extracurricular activities; and (iv) use and/or access to certain University-controlled property. A loss and/or restriction of privileges may be imposed for a definite or indefinite period of time.
 - (c) **Community Service.** A Respondent may be required to perform unpaid service for a designated University department, program, or service and/or a University-affiliated or unaffiliated not-for-profit or volunteer organization.
 - (d) **Educational Sanction.** A Respondent may be required to complete an educational assignment or program. Educational assignments and programs are designed to educate the Respondent about why certain conduct is inappropriate. Examples of educational assignments include, without limitation: (i) writing a reflection and/or research paper on a designated topic; (ii) completing a research project on a designated topic; (iii) giving a presentation on a designated topic; and (iv) issuing a formal apology in writing and/or in person. An educational program may include, without limitation, attending and satisfactorily completing an in-person or distance learning course, training, or workshop on alcohol or drug use, civility, ethics, or other

topics deemed appropriate by the Office of Student Conduct. The Respondent will be responsible for all costs associated with the educational assignment or program.

- (e) Fee or Fine. The University may impose a monetary fee or fine for any cost incurred by the University as a result of the Respondent's conduct and may require that the Respondent pay the fee or fine by a designated due date.
- (f) Restitution. The University may require a Respondent to make restitution to another person or organization or the University for destruction, damage, or loss of property caused by the Respondent, or for unreimbursed medical expenses resulting from physical injury of another person caused by the Respondent. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss caused by the Respondent.
- (g) Reassignment or Removal from University Housing. The University may reassign a Respondent to a different University housing facility or remove and prohibit a Respondent from residing in any University housing facility for a definite or indefinite period of time.
- (h) Disciplinary Probation. A Respondent may be placed on disciplinary probation for serious or moderate Code violations or in the case of multiple or repeated minor Code violations. A Respondent may be placed on disciplinary probation for a definite or indefinite period of time, during which time the Respondent may continue to be enrolled at the University. While the Respondent is on disciplinary probation, conditions may be placed on the Respondent's continued enrollment at the University, and University departments, programs, and/or services may limit or prohibit participation in certain activities. If a Respondent commits any further Code violations while on disciplinary probation, the Respondent may be subject to more severe sanctions up to and including permanent dismissal.
- (i) Suspension. Suspension is an official separation from the University for a specific period of time and/or until certain conditions are met. A Respondent may be suspended from the University for serious Code violations, in the case of multiple or repeated moderate or minor Code violations, and/or for any Code violations while on disciplinary probation. While on suspension, a Respondent (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; and (iii) is ineligible to apply for readmission to the University during the suspension period and/or until certain conditions are met. If a Respondent is suspended, the Respondent is prohibited, without the prior approval of the Vice Chancellor for Student Affairs (or his or her designee), from entering upon all University-controlled property, including University residence halls, from the date that the suspension period begins until such date that the Respondent is readmitted to the University (even if the suspension period ends prior to the date of the Respondent's readmission). Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs (or his or her designee) may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee. Respondents permitted to return to the University following a period of suspension will be automatically placed on disciplinary probation for a designated period of time following their return. A Respondent who commits any Code

violations while on suspension may be subject to suspension for an additional period of time or barred from readmission and/or re-enrollment at the University.

- (j) **Permanent Dismissal.** Permanent dismissal is an official and permanent separation from the University. A Respondent may be permanently dismissed from the University when the Respondent's commission of one (1) or more Code violations is deemed so serious as to warrant total and permanent disassociation from the University or when, through repeated violations of the Code and/or violations of the Code while on disciplinary probation or suspension, the Respondent exhibits blatant disregard for (i) the health, safety, and welfare of himself or herself or other members of the University community or (ii) the University's right to establish rules of conduct. A Respondent who is permanently dismissed from the University: (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; (iii) is indefinitely prohibited, without prior approval of the Vice Chancellor for Student Affairs (or his or her designee) from entering upon all University-controlled property, including University residence halls; and (iv) is permanently barred from re-enrolling at the University. Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs (or his or her designee) may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee.
- (k) **Revocation of Admission.** The University may revoke a Respondent's admission to the University after the Respondent's admission to the University but prior to Respondent's enrollment at the University, if the Respondent (i) provides false or incomplete information on Respondent's application for admission; or (ii) violates federal, state, or local law or the Code prior to enrollment. A Respondent whose admission has been revoked: (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; and (iii) is indefinitely prohibited from entering upon all University-controlled property, including residence halls, without prior approval of the Vice Chancellor for Student Affairs (or his or her designee). Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee.
- (l) **Withholding of Degree.** The University may withhold awarding a degree to a Respondent who has violated any University rule or policy. The University may withhold a degree for a definite period of time and/or until the Respondent has completed or served all sanctions or other requirements imposed by the University for releasing its award of the degree.
- (m) **Revocation of Degree.** The University may revoke a degree awarded to a Respondent if the Respondent obtained the degree, in part, through cheating, plagiarism, academic dishonesty, research misconduct, or other serious violation of the Code. The University may also revoke a Respondent's degree if, after the degree was awarded, the University determines that the Respondent committed a serious violation of the Code while a student, but prior to being awarded the degree, that would have warranted permanent dismissal of the Respondent. Before a Respondent's degree may be revoked, the Chancellor must approve the revocation of the degree.

- (4) The following disciplinary sanctions may be imposed on a student organization found to have violated the Code:
- (a) **Disciplinary Reprimand.** A disciplinary reprimand is a written warning that informs a Respondent that the Respondent is violating or has violated the Code and must cease and desist from engaging in the misconduct and/or prevent the misconduct from occurring again. A disciplinary reprimand will also inform the Respondent that any further violations of the Code may result in the imposition of more severe sanctions.
 - (b) **Loss or Restriction of Privileges.** The University may impose a loss or restriction of privileges on a Respondent. Privileges that may be lost or restricted include, without limitation, the following: (i) participation in extracurricular activities (e.g., intramurals); (ii) housing privileges; (iii) participation in or sponsorship of social activities; and (iv) use and/or access to certain University-controlled property. A loss or restriction of privileges may be imposed for a definite or indefinite period of time.
 - (c) **Fee or Fine.** The University may impose a monetary fee or fine for any cost incurred by the University as a result of the Respondent's conduct and may require that the Respondent pay the fee or fine by a designated due date.
 - (d) **Restitution.** The University may require a Respondent to make restitution to another person or organization or the University for destruction, damage, or loss of property caused by the Respondent, or for unreimbursed medical expenses resulting from physical injury of another person caused by the Respondent. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss caused by the Respondent.
 - (e) **Community Service.** Members of the Respondent may be required to perform unpaid service for a designated University department, program, or service and/or a University-affiliated or unaffiliated not-for-profit or volunteer organization.
 - (f) **Educational Sanction.** Members of the Respondent may be required to complete an educational program. Educational programs are designed to educate the Respondent's members about why certain conduct is inappropriate. An educational program may include, without limitation, attending and satisfactorily completing an in-person or distance learning course, training, or workshop on alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Office of Student Conduct. The Respondent will be responsible for all costs associated with the educational program.
 - (g) **Disciplinary Probation.** A Respondent may be placed on disciplinary probation for serious or moderate Code violations or in the case of multiple or repeated minor Code violations. A Respondent may be placed on disciplinary probation for a definite or indefinite period of time, during which time the Respondent may continue to operate at the University. While the Respondent is on disciplinary probation, conditions may be placed on the Respondent's continued operation, and University departments, programs, and/or services may limit or prohibit Respondent's participation in certain activities. If a Respondent commits any further Code violations while on disciplinary probation, the Respondent may be subject to more severe sanctions up to and including suspension or revocation of University registration.

- (h) **Suspension.** Suspension is an official separation from the University for a definite period of time and/or until certain conditions are met. A Respondent may be suspended from the University for serious Code violations, in the case of multiple or repeated moderate or minor Code violations, and/or for any Code violations while on disciplinary probation. While on suspension, a Respondent (i) may not operate at the University; (ii) may not represent the University in any manner; (iii) and is ineligible to resume operations at the University during the suspension period and/or until certain conditions are met. The Vice Chancellor for Student Affairs will determine whether the Respondent has fulfilled the required conditions for resuming operations at the University. Respondents permitted to resume operating at the University following a period of suspension will be automatically placed on disciplinary probation for a designated period of time following the suspension term. A Respondent who commits any Code violations while on suspension may be subject to suspension for an additional period of time or revocation of its registration with the University.
 - (i) **Revocation of University Registration.** In cases of a serious Code violation by a Respondent or a Respondent's violation of the Code while on disciplinary probation or suspension, the University may revoke the Respondent's registration with the University and cease to recognize the Respondent as a University-sanctioned student organization for a definite or indefinite period of time. If a Respondent's registration is revoked, the Respondent is barred from operating at the University.
- (5) More than one (1) of the disciplinary sanctions provided in this Section 11 may be imposed on a Respondent for any single violation of the Code.
 - (6) Disciplinary sanctions may be applied retroactively to the date of the Code violation(s) committed by the Respondent.

SECTION 12. APPEALS

- (1) **Appeal of Decisions of Hearing Officers and Student Conduct Boards.**
 - (a) **Appeal Period.** Except as provided in Section 13(3) of this Chapter, the decision of a Hearing Officer or Student Conduct Board may be appealed to the Vice Chancellor for Student Affairs by submitting a Notice of Appeal to the Office of Student Conduct in accordance with Section 12(1)(b) of this Chapter within five (5) business days of the effective date of the Notice of Decision to the appealing party. A Notice of Appeal not submitted within five (5) business days of the effective date of the Notice of Decision to the appealing party will not be considered.
 - (b) **Notice of Appeal.** A Notice of Appeal must state: (i) the name of the party appealing the decision; and (ii) the specific grounds for the appeal. Appeals not based on one (1) or more of the grounds provided under Section 12(1)(c) will not be considered.
 - (c) **Grounds for Appeal.** Appeals are limited to the following grounds:
 - 1. The party's rights were violated in the hearing process;
 - 2. New relevant and material information has become available that could not have been discovered at the time of the hearing;

3. The information presented did not support the decision by a preponderance of the evidence standard; or
 4. The sanction(s) imposed were not appropriate for the violation.
- (d) Response to Appeal by Non-Appealing Party. Upon receipt of a timely-submitted Notice of Appeal, the Office of Student Conduct will provide a copy of the Notice of Appeal to the non-appealing party, if applicable. The non-appealing party may respond to the appeal by submitting a written response to the Office of Student Conduct within three (3) business days of the effective date of the Notice of Appeal to the non-appealing party.
- (e) Decision on Appeal.
1. Within ten (10) business days of the Office of Student Conduct's receipt of the Notice of Appeal or the non-appealing party's response to the appeal, whichever occurs later, the Vice Chancellor of Student Affairs (or his or her designee) will provide notice to the parties of his or her decision.
 2. The Vice Chancellor for Student Affairs (or his or her designee) may (i) uphold, amend, or overturn the decision of the Hearing Officer or Student Conduct Board; or (ii) return the case to the Hearing Officer or Student Conduct Board for reconsideration.
 3. If the Vice Chancellor for Student Affairs decides to uphold, amend, or overturn the decision of the Hearing Officer or Student Conduct Board, the decision of the Vice Chancellor for Student Affairs is final.
 4. A decision by the Vice Chancellor for Student Affairs to return the case to the Hearing Officer or Student Conduct Board for reconsideration may not be appealed. Any decision by the Hearing Officer or Student Conduct Board on reconsideration may be appealed in accordance with this Section 12.
- (2) Any disciplinary sanction(s) issued by the Hearing Officer or the Student Conduct Board will remain in force throughout the pendency of an appeal, unless the Respondent requests that the disciplinary sanction(s) be stayed pending the Respondent's appeal and such a request is granted by the Hearing Officer or Student Conduct Board, as applicable.
- (3) Appeal of Decisions of Title IX Hearing Officers.
- (a) Appeal Period. The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer to the Vice Chancellor for Student Affairs by submitting a Notice of Appeal to the Office of Student Conduct in accordance with Section 12(3)(b) within five (5) business days of the effective date of the Notice of Decision. The Office of Student Conduct will notify a party in writing when an appeal is received from the other party. A Notice of Appeal not submitted within five (5) business days of the effective date of the Notice of Decision will not be considered.
 - (b) Notice of Appeal. A Notice of Appeal must state: (i) the name of the party appealing the decision; and (ii) the specific grounds for the appeal. Appeals not based on one (1) or more of the grounds provided under Section 12(3)(c) will not be considered.

- (c) **Grounds for Appeal.** The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:
 - 1. A procedural irregularity affected the outcome of the matter.
 - 2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
 - 3. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
 - 4. The party's rights were violated in the hearing process;
 - 5. The sanction(s) imposed were not appropriate for the violation.
 - 6. The information presented did not support the decision by a preponderance of the evidence standard.
- (d) **Effective Date of Sanction.** The sanction(s) imposed by the Title IX Hearing Officer shall not be effective during the pendency of an appeal.
- (e) **Appeal Statements.** Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Office of Student Conduct within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days of the date on which the non-appealing party received notice that the other party filed a Notice of Appeal.
- (f) **Decision on Appeal.** Within ten (10) business days of the receipt of the last timely submitted appeal statement from a party, the Vice Chancellor for Student Affairs will provide notice to the parties of his or her decision. The written notice will describe the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Vice Chancellor or Student Affairs is final and not subject to further appeal.

SECTION 13. CONCLUSION OF THE STUDENT CONDUCT PROCESS

A case involving alleged violations of the Code by a Respondent may be concluded in one (1) of the following ways:

- (1) **No-Action Determination.** If the Office of Student Conduct determines at any point in the student conduct process that no action will be taken against the Respondent regarding alleged violations of the Code, it will issue a Notice of Decision to the Respondent setting forth the decision.
 - (a) The Office of Student Conduct, in its discretion, may determine that no action be taken against a Respondent based on, without limitation, the following reasons:
 - 1. A determination that, based on a preponderance of the evidence, Respondent did not engage in the alleged Code violation(s);

2. A determination that it does not have sufficient information or witnesses to move forward in the student conduct process; and/or
 3. The Complainant declines to participate in the student conduct process.
- (b) After making a no-action determination, the Office of Student Conduct may reinstate the student conduct process with respect to the alleged Code violations against the Respondent at any time for good cause, including, without limitation, the discovery of new relevant and material information or a decision by the Complainant to participate in the student conduct process.
- (2) Behavioral Agreement. A case involving alleged violations of the Code will be concluded when the Respondent signs a behavioral agreement as provided under Section 7(5) of this Chapter.
 - (3) Failure to Contest. If the Respondent: (i) fails to request in writing a Formal Hearing to contest the charge(s) as provided under Section 7(1)(c) of this Chapter; (ii) fails to appear at a Hearing Officer Hearing or Student Conduct Board Hearing for which the proper notice was provided to the Respondent in accordance with the Code; or (iii) signs a written waiver of his or her right to contest the Code violation charge(s) through a Formal Hearing, the Office of Student Conduct may issue a Notice of Decision to the Respondent finding the Respondent responsible for the charge(s) and imposing the disciplinary sanctions proposed in the Notice of Charges. A decision issued pursuant to this Section 13(3) is not subject to appeal. The Office of Student Conduct may decline to issue a Notice of Decision upon a showing of good cause by the Respondent for his or her failure to timely request a Formal Hearing or to appear at a properly noticed Hearing Officer Hearing or Student Conduct Board Hearing.
 - (4) Resolution Agreement. A case will be concluded when a Resolution Agreement resolving the Code violation charge(s) is signed by the Respondent and becomes final and binding in accordance with Section 7(2) of this Chapter.
 - (5) Alternative Resolution Agreement. A case will be concluded when the allegations or charges of violations of the Code against the Respondent are resolved through an Alternative Resolution Agreement as provided under Section 7(3) of this Chapter.
 - (6) Informal Resolution. The student conduct process concludes when an Informal Resolution is agreed upon in accordance with Section 7(4) of this Chapter.
 - (7) Final Decision - Formal Hearing. In a case in which a Formal Hearing is held and the Respondent does not enter into a Resolution Agreement, the case will be concluded when a decision resolving the Code violation charge(s) is issued and is final. A decision is considered final when it is not appealed, is not subject to an appeal, or all appeals have been exhausted.

SECTION 14. INTERIM ACTIONS

- (1) In certain situations, the University may impose interim actions prior to the conclusion of the student conduct process. The University will determine the appropriate interim actions based on the totality of the circumstances. Interim actions are not disciplinary sanctions and are taken to protect the safety, security, and welfare of the Complainant, Respondent, the University community, and/or University property.

- (2) **No-Contact Directive.** In cases involving allegations of harassment, assault, physical injury, sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and/or retaliation, or where there is reason to believe continued contact between a student and a specific person may interfere with that specific person's security, safety, or ability to participate in work or studies, the University may issue a No-Contact Directive to the student that prohibits the student from having verbal, physical, written, and/or electronic contact, either directly or indirectly through a third party or other means, with the specific person for a definite or indefinite period of time. The student will receive written notice of the No-Contact Directive. Any student, faculty or staff member or other person with a reasonable justification may request a No-Contact Directive. Any violation of a No-Contact Directive will be considered a violation of the Code and a risk to the health, safety or welfare of the person whom the student is prohibited from contacting under the directive, and may result in disciplinary sanctions or additional interim actions against the student. A No-Contact Directive may be issued to a student organization under the same circumstances and conditions as provided under this Section 14(1).
- (3) **Disciplinary Hold.** A Disciplinary Hold is an encumbrance on a student's University record that prevents the student from registering for classes, receiving grades, transcripts, and/or academic credit, and being awarded a degree, until the reason for the hold is resolved. The Office of Student Conduct may place a Disciplinary Hold on a student's University record while allegations of Code violation(s) against the student are under investigation, disciplinary proceedings and/or sanctions against the student are pending or incomplete, or in accordance with other University rules or policies.
- (4) **Interim Restriction.** When the Office of Student Conduct has reasonable cause to believe that the continued presence of a Respondent (student or student organization) on certain University-controlled property or at certain University-affiliated activities (i) poses a risk to the health, safety, or welfare of others or to property; or (ii) poses a risk of disruption of or interference with the normal operations of the University, the Office of Student Conduct may impose an interim restriction and/or condition ("Interim Restriction") on the Respondent prior to the resolution of the allegations of Code violation(s) against the Respondent in the student conduct process. Examples of Interim Restrictions include, without limitation, restrictions on the Respondent's privileges to participate in University-affiliated activities, restrictions on the Respondent's privileges to access certain University-controlled property, and the Respondent's interim removal and/or reassignment from University-controlled housing. Restrictions imposed on a Respondent under a No-Contact Directive are not Interim Restrictions.
 - (a) The Respondent will be provided written notice of the Interim Restriction and the basis for the Interim Restriction. Unless otherwise determined by the Office of Student Conduct, the Interim Restriction will remain in effect until the conclusion of the student conduct process, which should be completed without undue delay.
 - (b) If the Respondent wishes to contest the Interim Restriction, the Respondent must request in writing to meet with the Vice Chancellor for Student Affairs within three (3) business days of the effective date of the notice of the Interim Restriction. Upon receipt of a timely request for a meeting, the Vice Chancellor for Student Affairs (or his or her designee) will schedule a meeting with the Respondent at which the Respondent will be offered the opportunity to discuss the following issues only: (i)

the reliability of the information concerning the Respondent's conduct on which the Interim Restriction was issued; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on certain University-controlled property or at certain University-affiliated activities poses a risk to the health, safety, or welfare of others or to property, or a risk to the disruption of or interference with the normal operations of the University. At the conclusion of the meeting, the Vice Chancellor for Student Affairs (or his or her designee) may remove, modify, or maintain the Interim Restriction and will notify the Respondent of his or her decision in writing.

- (c) Violations of the terms of an Interim Restriction may result in disciplinary sanctions and/or additional interim actions against the Respondent, and the Respondent may be treated as a trespasser.
- (5) Interim Suspension. When the Vice Chancellor for Student Affairs has reasonable cause to believe that the continued presence of a Respondent (student or student organization) on University-controlled property or at University-affiliated activities (i) poses a significant risk of substantial harm to the health or safety of others or to property; or (ii) poses an ongoing or imminent threat of disruption to or interference with the normal operations of the University, the Vice Chancellor for Student Affairs may impose an Interim Suspension on the Respondent prior to the resolution of the allegations of Code violation(s) against the Respondent in the student conduct process. During an Interim Suspension, the Respondent shall be denied access to University-controlled property, including residence halls, and all other University-affiliated activities or privileges for which the Respondent might otherwise be eligible, as the Vice Chancellor for Student Affairs determines in his or her sole discretion to be appropriate.
- (a) The Respondent will be provided written notice of the Interim Suspension and the basis for the Interim Suspension. Unless otherwise determined by the Vice Chancellor for Student Affairs, the Interim Suspension will remain in effect until the conclusion of the student conduct process, which should be completed without undue delay.
 - (b) If the Respondent wishes to contest the Interim Suspension, the Respondent must request in writing to meet with the Vice Chancellor for Student Affairs within three (3) business days of the effective date of the written notice of the Interim Suspension. Upon receipt of a timely request for a meeting, the Vice Chancellor for Student Affairs (or his or her designee) will schedule a meeting with the Respondent at which the Respondent will be offered the opportunity to discuss the following issues only: (i) the reliability of the information concerning the Respondent's conduct on which the Interim Suspension was issued; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on certain University-controlled property or at certain University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property, or an ongoing or imminent threat of disruption to or interference with the normal operations of the University. At the conclusion of the meeting, the Vice Chancellor for Student Affairs (or his or her designee) may remove, modify, or maintain the Interim Suspension and will notify the Respondent of his or her decision in writing.

- (c) Violations of the terms of an Interim Suspension may result in disciplinary sanctions and/or additional interim actions against the Respondent, and the Respondent may be treated as a trespasser. During an Interim Suspension, permission to be on University- controlled property or participate in University-affiliated activities may be granted by the Vice Chancellor for Student Affairs.
- (d) Notwithstanding any provisions in this Section 14 to the contrary, in any case in which a Formal Complaint is filed alleging Title IX Allegations, the Vice Chancellor for Student Affairs may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Affairs will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension within three (3) business days.

SECTION 15. STUDENT PARKING APPEALS BOARD

- (1) All students who park vehicles or own vehicles parked on University-controlled property are subject to the University's Parking Rules under Chapter 1720-02-03.
- (2) The Student Parking Appeals Board will review all appeals of parking citations issued to students in accordance with Chapter 1720-02-03. Decisions concerning appeals will be made by a majority vote of the Student Parking Appeals Board.
- (3) The Student Parking Appeals Board membership will consist of the student members of the Student Conduct Board.
- (4) A chairperson and a quorum of three (3) members of the Student Parking Appeals Board is required for each hearing on an appeal. A University official from either the Office of Parking Services or the Office of Student Conduct will serve as the chairperson for an appeal hearing. The chairperson will vote on an appeal only in the event of a tie-vote among the board members.
- (5) The chairperson and the board members will be fair and impartial. Any student appealing a parking citation has the right to challenge the fairness or impartiality of the chairperson or any board member hearing the student's appeal. Any chairperson or board member lacking fairness or impartiality will recuse himself or herself or may, for good cause and at the discretion of the Vice Chancellor for Student Affairs (or his or her designee), be removed from hearing an appeal.

SECTION 16. STUDENT CONDUCT RECORDS

- (1) Maintenance. The University maintains student conduct records separately from student academic records. The Office of Student Conduct serves as the record custodian for student conduct records.
- (2) Disclosure. A student may inspect and review his or her own student conduct records upon request to the Office of Student Conduct. The Office of Student Conduct may disclose a student's student conduct records to other persons upon written consent of the student. The Office of Student Conduct may disclose a student's student conduct records to other persons,

- including other University officials, without written consent from the student only in accordance with federal or state law.
- (3) **Retention and Disposal of Student Conduct Records.** The University will retain a student's student conduct records for a period of seven (7) years after the student's last date of enrollment with the University, unless required to retain the records for a longer period of time by law or as otherwise provided in this Section 16(3). The Office of Student Conduct will permanently retain student conduct records for students who receive one (1) or more of the following disciplinary sanctions (or equivalent sanctions under previous versions of the Code) from the University: Suspension, Permanent Dismissal, Withholding of Degree, and Revocation of Degree.
 - (4) **Retention and Disposal of Student Organization Conduct Records.** The University will retain a student organization's conduct records for a period of seven (7) years following the conclusion of the matter to which the conduct records relate, unless required to retain the records for a longer period of time by law or as otherwise provided in this Section 16(4). The Office of Student Conduct will permanently retain student organization conduct records relating to matters in which a student organization receives one (1) or more of the following disciplinary sanctions (or equivalent sanctions under previous versions of the Code) from the University: Suspension or Revocation of Registration.

SECTION 17. AMNESTY FOR GOOD SAMARITANS AND IMPAIRED STUDENTS

- (1) The University holds paramount the health, safety, and welfare of students. Accordingly, all students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or drugs.
- (2) **Expectations.** When a student knows or reasonably should know that another student is in need of emergency medical attention, the student is expected to: (i) contact appropriate persons (including, but not limited to, University faculty or staff members, law enforcement officials, etc.) to report the incident and request assistance, including providing his or her name and contact information and the name and contact information of the impaired student; and (ii) demonstrate cooperation and care by remaining with the impaired student and providing reasonable assistance during and after the incident. A student who complies with the expectations described in this Section 17 is referred to as a "Good Samaritan." A student in need of emergency medical attention is referred to as an "impaired student" under this Section 17.
- (3) **Amnesty for Good Samaritans.** Unless a Good Samaritan has engaged in repeated or serious violations of the Code (including, but not limited to, physical or sexual assault, property destruction, disorderly behavior, theft, multiple alcohol or drug violations), a Good Samaritan will not be subject to formal University disciplinary action for any Code violation(s) discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, a Good Samaritan may be required to meet with the Office of Student Conduct to discuss the Good Samaritan's Code violation(s) and adhere to appropriate remedial and/or educational recommendations.
- (4) **Amnesty for Impaired Student.** Unless an impaired student has engaged in repeated or serious violations of the Code (including, but not limited to, physical or sexual assault, property destruction, disorderly behavior, theft, multiple alcohol or drug violations), an impaired

student will not be subject to formal University disciplinary action for any Code violation(s) discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the impaired student may be required to meet with the Office of Student Conduct to discuss the impaired student's Code violation(s), participate in educational activities, and/or establish that he or she has addressed the issues that contributed to the Code violation(s).

- (5) **Application to Student Organizations.** Student organizations, through their officers and members, are also expected to take responsible action in emergency situations in accordance with the expectations under Section 17(2) of this Chapter. A student organization may receive amnesty for any Code violation(s) discovered by the University as a result of the Good Samaritan reports of its officers and/or members, but if not granted amnesty, the responsible actions of its officers and/or members will be considered a mitigating factor when determining disciplinary sanctions, if any, for any Code violation(s) for which the student organization is found responsible. Conversely, the failure of a student organization's officers and/or members to take responsible action in emergency situations in accordance with the expectations under Section 17(2) of this Chapter may be considered an aggravating factor when determining disciplinary sanctions, if any, for any Code violation(s) for which the student organization is found responsible.