1. INITIATION OF DISCIPLINARY PROCEEDINGS

1.1 The University of North Carolina at Pembroke is an educational institution. At educational institutions, judicial proceedings do not follow the same procedure used in courtrooms. The university does not employ lawyers to “prosecute” students, nor does it permit lawyers to represent students at university judicial hearings. The university shall have the burden of proof of guilt by a preponderance of evidence. Burden of proof of guilt by a preponderance of evidence shall be interpreted as a person being held responsible based upon evidence (that evidence which is more likely than not) presented from which any reasonable person would conclude that a violation of the Code of Conduct had occurred. The purpose of the student discipline process is to maintain a healthy community where shared values, expectations, and behavioral standards set by the campus community are enforced. Students share in the responsibility for maintaining an environment in which the rights of each member of the university community are respected. The goal of the university discipline process is to provide all students with a fair and just system of adjudication.
1.2 Under the direction of the chancellor, the vice chancellor for student affairs has primary responsibility and authority for the administration of student discipline. Further delegation of this authority may be made by the vice chancellor for student affairs to the director of student conduct and/or other disciplinary bodies such as the Campus Judicial Board (CJB) and the Committee on Extraordinary Disciplinary Emergencies.

2. FILING COMPLAINTS

2.1 Any academic or administrative official, faculty or staff member, or student may file a written complaint with the office of the director of student conduct against any student for misconduct.

2.2 While action on a complaint of violating a university policy is pending, the status of the student shall not be altered, except for reasons outlined in Section 17.5 (Summary Suspension) of this policy.

3. PRESUMPTION OF INNOCENCE

3.1 Any student charged with an infraction of the Code of Conduct shall be presumed innocent until proven responsible by a preponderance of evidence.

4. PRELIMINARY INVESTIGATION

4.1 When the director of student conduct receives information that a student has allegedly violated university policies or local, state, or federal law, the director of student conduct or his/her designee shall investigate the alleged violation. After completing a preliminary investigation, the director of student conduct or his/her designee may:

4.1.a. find no basis for the complaint and dismiss the allegation as unfounded;

4.1.b. summon the student for a pre-hearing and then either dismiss the allegation, or provide the student with the choice of an administrative or CJB hearing; or

4.1.c. proceed administratively by informing the student of the options for resolution of the disciplinary charges.

5. OPTIONS FOR RESOLUTION OF DISCIPLINARY CHARGES

5.1 Plead not responsible to the charge(s) and request an administrative hearing before the director of student conduct or his/her designee where determination of responsibility will be made. The director of student conduct or his/her designee may elect not to hear the case. The case would then be heard by the Campus Judicial Board (CJB). If the student is held responsible by the administrative hearing officer, an appropriate sanction will be determined.
5.2 Plead not responsible to the charge(s) and have a hearing before the CJB where a determination of responsibility will be made. If the student is held responsible by the CJB, an appropriate sanction will be determined.

5.3 Plead responsible to the charge(s) and request an administrative hearing before the director of student conduct or his/her designee to determine an appropriate sanction. The director of student conduct or his/her designee may elect not to hear the case. The case would then be heard by the CJB.

5.4 Plead responsible to the charge(s) and request that the CJB determine an appropriate sanction.

5.5 A student choosing a hearing before an administrative hearing officer or the CJB has a right of appeal to the Campus Appeal Board and then to the vice chancellor for student affairs. If a student chooses a hearing before the CJB and is cited for an additional violation in the interim, a student then forfeits the right to a board hearing, and an administrative hearing will be conducted on all charges.

5.5.1 All charges for alleged Code of Conduct violations occurring one week prior to exams and going through exam week and during summer sessions will be heard by the administrative hearing officer or his/her designee. Appeals will be directed solely to the vice chancellor for student affairs or his/her designee via the director of student conduct or his/her designee.

5.6 If a student requests an administrative hearing before the director of student conduct or his/her designee, the student may waive all or part of the written notice requirements that follow. The student may also waive the number of days specified from the original date of the charge(s) and proceed with the hearing. All waivers shall be executed by a signed writing. If the student chooses an administrative hearing, the director of student conduct or his/her designee shall provide him/her with:

5.6.a. a written notice of the charge(s) and an outline of rights. In the event that additional charges are brought, a further written notice must be forwarded to the student in accordance with Section 7 (Disciplinary Correspondence) of this policy;

5.6.b. a review of all available information, documents, exhibits, and a list of witnesses that may testify against him/her. This is a continuing obligation of the complaining party and the director of student conduct or his/her designee;

5.6.c. a choice to elect not to appear at the hearing. The hearing shall be conducted in the student’s absence;

5.6.d. a written notice of the date, time, and place of the hearing forwarded to the accused at least five (5) class days prior to the hearing. Unless the student waives all or part of the notice, the formal hearing will not be held less than five (5) class days from the date of the original charge letter; and
5.6.e. a prehearing interview with the director of student conduct or his/her designee where all of these rights, responsibilities, and procedures are explained.

6. SUMMONING A STUDENT FOR A PRE-HEARING

6.1 Should a student not appear when requested by the director of student conduct or his/her designee, the director of student conduct or his/her designee may formally summon a student to appear for a conference in connection with an alleged violation.

6.2 The letter shall direct the student to appear at a specified time and place not less than three (3) class days later. The letter shall also describe briefly the alleged violation.

6.3 If an accused student fails to respond to a charge letter and the required pre-hearing interview, the accused student forfeits the aforementioned options stated in Sections 5.6.a. through 5.6.e. and will be notified by certified letter, sent at least seven (7) class days before a hearing before the director of student conduct or his/her designee, or, at the option of the director of student conduct, the CJB. At this hearing, a decision of responsible or not responsible will be made based on available information, with or without the accused student. If the student fails to attend the hearing, all allegations against the student shall be deemed to be denied by the student. When appropriate, a sanction will be determined and the student will be notified in writing.

7. DISCIPLINARY CORRESPONDENCE

7.1 All disciplinary correspondence will be sent to the student’s campus email account via Maxient (conduct database) and/or via university email from the director of student conduct or his/her designee, or to the student’s campus post office box (for on-campus residents) by certified mail, return receipt requested, and to the permanent address of record for commuter students by certified mail, return receipt requested. The university reserves the right to use other reasonable means to notify students.

8. CAMPUS JUDICIAL BOARD (CJB)

8.1 When a student requests a hearing before the CJB or when a case is referred by the director of student conduct or his/her designee, the CJB becomes involved. The CJB is a board of the chancellor composed of faculty, staff, and student members. The director of student conduct or his/her designee serves as the advisor to the CJB. The members are:

8.1.a. a minimum of five (5) students recommended by the president of the student body. Interested students may be recommended by university departments, or may apply to the office of student conduct for selection for consideration by the chancellor. Students that are recommended and/or selected will be appointed by the chancellor;

8.1.b. a minimum of five (5) faculty members recommended by the faculty senate chairperson and appointed by the chancellor; and
8.1.c. a minimum of two (2) administrative members recommended by the vice chancellor for student affairs and appointed by the chancellor.

8.2 The chairperson of the CJB shall be appointed by the chancellor.

8.3 A quorum shall consist of any three (3) members, including the chairperson. The chairperson of the CJB is a non-voting member, except when there is a tie vote.

8.4 Selection of Campus Judicial Board members

8.4.1 The students recommended by the president of the Student Government Association for appointment to the CJB are selected through a campus-wide application process.

8.4.2 CJB members will be appointed by August 15 each year. Appointments are for one (1) year. CJB members may be reappointed by the chancellor.

8.4.3 Vacancies occurring during the course of the year will be filled by the chancellor.

8.4.4 Members of the CJB become active members only after they have been trained by the office of the director of student conduct.

8.5. Jurisdiction of Campus Judicial Board

8.5.1 The CJB may have, at the request of the student, original jurisdiction in disciplinary cases.

8.5.2 The CJB may have, upon referral by the director of student conduct or his/her designee, original jurisdiction in disciplinary cases

9. PROCEDURAL STANDARDS FOR CAMPUS JUDICIAL BOARD CASES

9.1 All matters upon which the decision may be based must be introduced into evidence at the hearing before the CJB. The decision shall be based solely upon such matters and must be supported by the evidence. Any student charged with an infraction shall be presumed not responsible until proven responsible by a preponderance of the evidence.

9.2 All evidence will be admitted except that which is irrelevant or repetitious or which is obtained in violation of search and entry provisions. The CJB will be the sole judge of admissibility of evidence.

9.3 CJB records are maintained in the office of the vice chancellor for student affairs and are confidential and may be released only with the consent of the accused student.

9.4 No member of the hearing body who has a personal interest in the particular case may sit in judgment during the proceedings. In such cases in which a member cannot serve due to a conflict of interest, an alternate member will serve for the duration of the hearing.
10. HEARINGS BEFORE CAMPUS JUDICIAL BOARD

10.1 Prior to a hearing, the accused student is entitled to:

10.1.a. a written notice of the charge(s) and an outline of rights. In the event that additional charges are brought, a further written notice must be forwarded to the student;

10.1.b. a review of all available information, documents, exhibits, and a list of witnesses that may testify against him/her. This is a continuing obligation of the complaining party and the director of student conduct or his/her designee;

10.1.c. a written notice of the date, time, and place of the hearing forwarded to the accused at least five (5) class days prior to the hearing, unless the student waives all or part of the notice. The formal hearing will not be held less than five (5) class days from the date of the original charge letter, unless the student charged waives the limit; and/or

10.1.d. a prehearing interview with the director of student conduct or his/her designee where all these rights, responsibilities, and procedures are explained.

11. DUTIES OF THE CAMPUS JUDICIAL BOARD

11.1 In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by the CJB. The CJB will:

11.1.a. rule on the admissibility of evidence, motions, and objections to procedures;

11.1.b. set forth finding of facts;

11.1.c. render a written decision as to the accused student’s guilt or innocence of the charges;

11.1.d. determine the penalty, if any; and

11.1.e. provide the vice chancellor for student affairs with a copy of the decision.

12. DUTIES OF THE DIRECTOR OF STUDENT CONDUCT

12.1 The director of student conduct or his/her designee shall:

12.1.a. consult the CJB in setting the date, time, and place of the hearing; and

12.1.b. notify the student of the date, time, and place of the hearing. The letter shall specify a hearing date not less than five (5) class days after the date of the receipt of the letter. A student may request in writing that an earlier date be set, if feasible. The CJB, for good cause, may postpone the hearing and notify all interested persons of the new hearing date, time, and place.

12.2 A letter mailed under section 12.1.b. shall:
12.2.1 direct the student charged to appear at a date, time, and place specified;

12.2.2 advise the student of his/her rights. Those rights are:

12.2.2.a. to appear in person, hear all testimony, and present any relevant information on his/her behalf, call witnesses, ask questions of any person present at the hearing;

12.2.2.b. to elect not to appear at the hearing. The hearing then shall be conducted in the student’s absence;

12.2.2.c. to refuse to answer any questions or make a statement – however, the hearing authority then shall make its decisions solely on the basis of information introduced at the hearing;

12.2.2.d. to know the identity of witnesses who will testify against him/her;

12.2.2.e. to question each witness who will testify against him/her for the purpose of clarification;

12.2.2.f. to have all statements, information, or comments given during the hearing held in strictest confidence by members of the board before, during, and after deliberation. Only those faculty and staff with an educational need to know will be informed of the outcome. The chairperson will exercise control over the hearing to avoid needless consumption of time, to avoid repetition of information, and to prevent the harassment or intimidation of participants;

12.2.2.g. to have hearings conducted in an informal manner where technical rules of evidence will not be applied. The taking of statements of witnesses may be done by discussion, though each witness shall be subject to cross-examination. Witnesses (except for the accused) shall be present during the hearing only during the time they are testifying. While written statements are admissible, no one shall be found responsible who has not had the opportunity to testify, to present evidence and witnesses, and to hear and question adverse witnesses;

12.2.2.h. to have a summary of the hearing record; and

12.2.2.i. to appeal.

12.2.3 contain the name of the person appointed to act as chairperson of the CJB;

12.2.4 contain the names of witnesses who will testify against the student and a description of evidence and charges that will be offered against him/her;

12.2.5 contain a copy of the complaint; and

12.2.6 notify the charged student that the director of student conduct or his/her designee may question a student testifying on the defendant’s behalf or question the defendant if he/she testifies on his/her behalf.
12.3 If a student fails, without good cause, to comply with the letter sent under this section, the CJB may proceed with the hearing in the student’s absence.

13. HEARING PROCEDURE

13.1 The CJB shall proceed generally as follows during the hearing:

13.1.a. judicial hearings shall be closed to the public;

13.1.b. the chairperson of the CJB reads a complaint and informs the student charged of his/her rights, and asks the student whether he/she pleads responsible or not responsible to the charge(s) before the CJB;

13.1.c. the director of student conduct or his/her designee presents the university’s case;

13.1.d. the student presents his/her defense;

13.1.e. the director of student conduct or his/her designee and the student defendant present rebuttal evidence and arguments;

13.1.f. the CJB deliberates and decides the issue of responsibility or non-responsibility;

13.1.g. if the CJB finds the charged student responsible, the director of student conduct or his/her designee and the student charged may present evidence and arguments on an appropriate penalty;

13.1.h. the CJB deliberates and determines an appropriate penalty (when the sanction is expulsion, please see expulsion regulation, Section IV, Rights and Responsibilities, of the UNC Pembroke Student Handbook.)

13.1.i. the CJB renders a written decision as to the accused student’s responsibility or non-responsibility of charges. The decision states the penalty, if any, and procedures for appeal; and

13.1.j. the accused student, the vice chancellor for student affairs, the associate vice chancellor for student affairs, and the director of student conduct shall each be given a copy of the decision.

14. HEARING RECORD

14.1 The hearing record is confidential and consists of:

14.1.a. a copy of the notice forwarded to the student;

14.1.b. a written summary of the hearing together with other material considered by the CJB; and
14.1.c. the decision(s) of the CJB.

15. APPEAL OF ADMINISTRATIVE/CAMPUS JUDICIAL BOARD DECISION

15.1 In the event that a charged student disagrees with a finding of responsible or sanction of an administrative hearing officer or the CJB, the charged student may request an appeal to the Campus Appeal Board (CAB) within forty-eight (48) hours after notification of the decision by obtaining a Request for Appellate Consideration form from the Office of Student Conduct and then submitting said form to the director of student conduct. She/he will submit the appeal to the CAB within forty-eight (48) hours for prompt consideration. Original sanctions (except summary suspension) are normally put into effect only after the CAB makes a decision. The Campus Appeal Board has the authority to approve, reject, or modify sanctions. It may impose less severe sanctions as well as more severe sanctions. The decision of the CAB may be appealed to the chancellor or his/her designee by completing the Request for Appellate Consideration form. The appeal must be submitted to the director of student conduct within forty-eight (48) hours, and she/he will submit the appeal to the chancellor or his/her designee for prompt consideration.

15.2 The Campus Appeal Board shall be composed of the chairperson of the faculty senate who will serve as chairperson, the president of the student body or his/her designee from the SGA Executive Board, one faculty member, recommended by the faculty senate chair, and one university staff member, recommended by the vice chancellor for student affairs. The faculty and staff member will be appointed by the chancellor.

15.3 A quorum shall consist of any three (3) members, including the chairperson.

15.4 The function of the Campus Appeal Board is that of reviewing the action of the administrative hearing officer or the CJB to determine if: (1) an alleged violation of the rights guaranteed the accused has occurred; (2) the sanction is too severe for the violation; or (3) new evidence has developed which has bearing on the outcome (when the sanction is expulsion, please see expulsion regulation, Section IV, Rights and Responsibilities of the UNC Pembroke Student Handbook.)

15.5 The Campus Appeal Board shall receive the petition from a student choosing to appeal the decision of an administrative hearing or a CJB hearing. Such petition shall be submitted to the chair of the CAB through the office of the director of student conduct, explaining in detail the reasons for the student’s appeal and specifying the ways in which he/she believes the procedures or actions of the administrative hearing officer have violated his/her rights.

15.6 Upon receiving a petition, the Campus Appeal Board shall obtain the record of the administrative hearing officer or the CJB. Such record shall include relevant documents and a written statement by the hearing officer. Such statement in the case of administrative action shall summarize the case and the reasons supporting the disciplinary action.

15.7 With this information, the Campus Appeal Board shall decide whether an appeal hearing is warranted. This decision is based upon the three options for an appeal outlined in Section 15.4
above. It shall notify the petitioner in writing of its decision within seven (7) class days after receiving the student’s petition.

15.8 If the Campus Appeal Board determines that a hearing should be granted, that hearing shall be held within seven (7) class days of such determination and notification shall be given in writing at least three (3) days prior to the date set for the hearing, specifying time and place of the hearing and informing the student of his/her rights. If a student chooses to waive the seven-day (7) notice and other requirements as stated in this section, an immediate appeal hearing may be scheduled.

15.9 The CAB shall invite the appellant, the respective administrative hearing officer, or the chairperson of the CJB, and such other persons as it deems appropriate to appear before the board to make statements and respond to questions. The student and administrative hearing officer may request the board to invite persons to testify if and only if there is new evidence. The CAB follows regular hearing procedures in appeal cases, if it elects to hear new evidence.

15.10 No member of the CAB shall be a party to any prior investigation or witness in the case nor should any member be placed in the position of developing or prosecuting the case.

15.11 After the hearing is concluded, the Campus Appeal Board shall go into executive session to reach a decision.

15.12 The CAB has the authority to approve, reject, or modify the decision in question. It may impose less severe sanctions as well as more severe sanctions. The chairperson of the Campus Appeal Board is a non-voting member, except when there is a tie vote. The decision of the CAB will be submitted in writing to the director of student conduct. The decision of the CAB may be appealed to the chancellor or his/her designee as outlined in Section 16 of this policy. Prompt notice of the decision of the Campus Appeal Board shall be given. Any appeal of this decision must be in writing and presented within forty-eight (48) hours after notification of the decision to the director of student conduct who will submit the appeal to the chancellor or his/her designee.

16. APPEAL OF A CAMPUS APPEAL BOARD (CAB) DECISION

16.1 In the event a charged student disagrees with a finding of responsible or sanction of the CAB, the charged student may request an appeal to the chancellor or his/her designee within forty-eight (48) hours after notification of the decision. Original sanctions (except summary suspension) are normally put into effect only after the chancellor or his/her designee makes a decision.

16.2 The procedure for an appeal of a CAB decision is as follows:

16.2.a. the function of the chancellor or his/her designee in hearing an appeal is that of reviewing the action of the CAB to determine if: (a) an alleged violation of the rights guaranteed the accused has occurred; (b) the sanction is too severe for the violation; or, (c) new evidence
16.2.b. the chancellor or his/her designee shall receive the petition from a student choosing to appeal the decision of the CAB. Such petition shall be submitted in writing to the chancellor or his/her designee through the director of student conduct explaining in detail the reasons for the student’s appeal and specifying the ways in which he/she believes the procedures or actions of the judicial process have violated his/her rights;

16.2.c. upon receiving a petition, the chancellor or his/her designee shall obtain the record of the CAB. Such record shall include relevant documents and a written statement by the CAB. Such statement shall summarize the case and the reasons supporting the Campus Appeal Board’s decision;

16.2.d. with this information, the chancellor or his/her designee shall decide whether an appeal hearing is warranted. This decision is based upon the three (3) options for an appeal stated in 16.2.a. above. He/she shall notify the petitioner in writing of his/her decision within seven (7) class days after receiving the student’s petition;

16.2.e. if the chancellor or his/her designee determines that a hearing shall be granted, that hearing shall be held within seven (7) class days of such determination and notification shall be given in writing at least three (3) class days prior to the date set for the hearing, specifying time, date, and place of the hearing and informing the student of his/her rights;

16.2.f. the chancellor or his/her designee may invite the appellant and other persons as he/she deems appropriate to appear before him/her to make statements and respond to questions. The student may request the chancellor or his/her designee to invite persons to testify if there is new evidence; and

16.2.g. the chancellor or his/her designee has the authority to approve, reject, or modify the decision in question. The chancellor or his/her designee may impose less severe sanctions as well as more severe sanctions.

17. COMMITTEE ON EXTRAORDINARY DISCIPLINARY EMERGENCIES

17.1 Notwithstanding any other provisions of the UNCP Code of Conduct, and in fulfillment of the obligation of the university and of the chancellor to maintain campus security and to protect the safety and welfare of students, employees, and visitors to the university, the Committee on Extraordinary Disciplinary Emergencies is established in accordance with the provisions of N.C.G.S. §116-11.2, and N.C.G.S. §116.34.a.; UNC Code 502 D (3), 600, 608 (2), and UNC Code Appendix XII and XV; and the UNCP Code of Conduct.

17.2 The Committee on Extraordinary Disciplinary Emergencies is established under the delegation of the chancellor pursuant to his responsibility for student affairs. The committee is established to investigate, and make recommendations to the chancellor concerning the disposition of complex cases or of those cases involving students or student organizations whose
behavior, on or off campus, is such that their presence at the university, in the judgment of the committee, upon referral from the vice chancellor for student affairs or the chancellor, may pose either:

17.2.a. a serious risk of disruption of the academic environment;

17.2.b. a serious risk of interference with the rights of other members of the university community;

17.2.c. a serious risk or continuing danger to university property; or

17.2.d. a serious risk or continuing danger to members of the university community.

17.3 Examples of student behavior that may come within the jurisdiction of the committee include, but are not limited to:

17.3.a. students or student organizations who have been arrested or charged with a serious crime of a violent nature, or of a dangerous nature, or which involved placing another person in fear of imminent injury or damage (e.g., rape, sexual assault, felonious assault, etc.); and

17.3.b. students subject to summary suspension.

17.4 Committee Membership and Emergency Procedures. The committee shall be composed of the vice chancellor for student affairs or his/her designee, the provost and vice chancellor for academic affairs or his/her designee, the vice chancellor for business affairs or his/her designee, the vice chancellor for advancement or his/her designee, the associate vice chancellor for student affairs or his/her designee, the director of student conduct or his/her designee, the chairman of the faculty senate or his/her designee, and the president of the student body or his/her designee.

17.4.1 A quorum of the committee shall consist of any four (4) members of the committee or their designees.

17.4.2 In each case, the committee shall designate a chair to preside over the committee. In the event of a tie vote, the administrative action of the university is ratified. In an emergency situation, the vice chancellor for student affairs or his/her designee shall have the power to invoke summary suspension. After a hearing, the committee may either ratify the vice chancellor’s action, or reverse it, or take any other appropriate action. In such emergency situations, the vice chancellor for student affairs shall inform the chancellor of all actions taken either summarily or by the committee under the authority of this policy. The chancellor has the authority to approve, reject, or modify the action of the vice chancellor for student affairs or the committee at any stage of the proceedings. The chancellor may impose less severe sanctions as well as more severe sanctions.

17.5 Summary Suspension. Summary suspension is an action requiring that a student immediately leave the campus and university property. It may be imposed by the vice chancellor
for student affairs or his/her designee when there is reasonable cause to believe, based on available facts, that the student is an immediate threat to the safety of members of the university community or university property, or is disruptive without relief to the university community.

17.5.1. Any student who is suspended on a summary basis and returns to the campus and university property during the suspension shall be subject to further disciplinary action and may be treated as a trespasser. Permission to be on campus for a specific purpose (e.g., to take an exam, to consult with the director of student conduct, or to participate in the disciplinary procedures against him/her) may be granted in writing by the vice chancellor for student affairs or his/her designee.

17.5.2 When a student is suspended on a summary basis, he/she is given notice containing the reasons for suspension, the duration and any conditions that apply, and a copy of this summary suspension policy. A student notified of such summary suspension may, within ten (10) class days of the written notice of suspension, request through the vice chancellor for student affairs or his/her designee a hearing before the Committee on Extraordinary Emergencies to determine the innocence or guilt of the student charged and the appropriate sanction, and whether the conditions of the summary suspension should continue. This hearing shall normally be conducted within five (5) class days of the student’s request for a hearing.

18. TRAFFIC APPEALS BOARD

18.1 The Traffic Appeals Board is appointed each year by the chancellor. The board consists of two students, one faculty and one staff member. The board has the authority to review violations to determine whether or not a violation has been properly established. The board has the authority to void or reduce any citation when a violation of the campus traffic regulations is not shown, but does not act as a substitution for public authority when it applies.