1. PURPOSE

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

1.2 This emphasis upon student education and growth as the primary objectives of the disciplinary procedures distinguish these processes from criminal or civil legal proceedings. Consistent with these student learning and development objectives, disciplinary procedures at UNC Pembroke reflect community values, university policies, and Board of Governors standards; and provide for the respect and consideration of all participants.

1.2.1 Disciplinary Procedures are not subject to the federal Rules of Evidence or the Rules of Civil Procedure. As a result, information that might be deemed “hearsay” or is otherwise inadmissible during a formal legal proceeding might be considered by the administrator or Conduct Hearing Board.
2. INITIATION OF DISCIPLINARY PROCEEDINGS

2.1 The University of North Carolina at Pembroke is an educational institution. At educational institutions, disciplinary proceedings do not follow the same procedure used in courtrooms. The university shall have the burden to prove responsibility by a preponderance of information. Preponderance of information shall be interpreted as a person being held responsible based upon information/evidence (that information/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.

2.2 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 Conduct Hearing Board (CHB) and the Committee on Extraordinary Disciplinary Emergencies.

3. FILING COMPLAINTS

3.1 Any academic or administrative official, faculty or staff member, or student may file a written complaint with the Office of Student Conduct against any student or any student organization for misconduct.

3.2 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 19.5 (Interim Suspension) of this policy.

4. PRESUMPTION OF INNOCENCE

4.1 Any student or student organization charged with an infraction of the Code of Conduct shall be presumed innocent until proven responsible by a preponderance of information.

5. PRELIMINARY INVESTIGATION

5.1 When the director of Student Conduct receives information that a student or student organization 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:

5.1.a. find no basis for the complaint and dismiss the allegation as unfounded;
5.1.b. summon the student or student organization for a pre-hearing interview and then either dismiss the allegation, or provide the student or student organization with the choice of an administrative or CHB hearing; or

5.1.c. proceed administratively by informing the student or student organization of the options for resolution of the disciplinary charges.

6. OPTIONS FOR RESOLUTION OF DISCIPLINARY CHARGES FOR INDIVIDUAL STUDENTS

6.1 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 CHB. If the student is held responsible by the administrative hearing officer, an appropriate sanction will be determined.

6.2 Plead not responsible to the charge(s) and have a hearing before the CHB where a determination of responsibility will be made. If the student is held responsible by the CHB, an appropriate sanction will be determined.

6.3 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 CHB.

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

6.5 A student choosing a hearing before an administrative hearing officer or the CHB has a right of appeal to the Conduct Appeal Board and then to the chancellor or his/her designee. If a student chooses a hearing before the CHB 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.

6.5.1 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.

6.6 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:
6.6.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 8 (Disciplinary Correspondence) of this policy;

6.6.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;

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

6.6.d. a written notice of the date, time, and place of the hearing forwarded to the accused at least five (5) calendar 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) calendar days from the date of the original charge letter; and

6.6.e. in cases of serious violations (a violation which the possible sanctions include suspension or dismissal) a written notice of the formal charges must be provided to the student. The hearing date for these charges may not be scheduled for at least ten (10) calendar days prior to the hearing unless the student waives all or part of the notice.

6.6.f. a pre-hearing interview with the director of Student Conduct or his/her designee where all of these rights, responsibilities, and procedures are explained.

7. SUMMONING A STUDENT FOR A PRE-HEARING INTERVIEW

7.1 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.

7.2 The letter shall direct the student to appear at a specified time and place not less than three (3) calendar days after issuance of the letter. The letter shall also describe briefly the alleged violation.

7.3 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 6.6.a. through 6.6.e. and will be notified by certified letter, sent at least seven (7) calendar days prior to a hearing before the director of Student Conduct or his/her designee, or, at the option of the director of Student Conduct, the CHB. 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.

8. DISCIPLINARY CORRESPONDENCE
8.1 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; 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.

9. CONDUCT HEARING BOARD (CHB)

9.1 The CHB shall become involved when a student requests a hearing before the CHB or when a case is referred by the director of Student Conduct or his/her designee. The CHB 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 CHB.

9.2 A quorum shall consist of any three (3) individuals (to include the chair) selected from the pool of members, which includes:

9.2.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;

9.2.b. a minimum of five (5) faculty members recommended by the faculty senate chair and appointed by the chancellor; and

9.2.c. a minimum of five (5) administrative members recommended by the vice chancellor for Student Affairs and appointed by the chancellor.

9.3 The chair of the CHB shall be appointed by the chancellor and is a non-voting member, except when there is a tie vote.

9.4 Selection of Conduct Hearing Board members

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

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

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

9.4.4 Members of the CHB become active members only after they have been trained by the Office of Student Conduct.

9.5. Jurisdiction of Conduct Hearing Board
9.5.1 The CHB may have, at the request of the student, original jurisdiction in disciplinary cases.

9.5.2 The CHB may have, upon referral by the director of Student Conduct or his/her designee, original jurisdiction in disciplinary cases.

10. PROCEDURAL STANDARDS FOR CONDUCT HEARING BOARD CASES

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

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

10.3 CHB records are maintained in the Office for Student Affairs and are confidential and may be released only with the consent of the accused student.

10.4 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.

10.5 In an effort to maintain the environment described in Section 1.1 of this document, questioning of witnesses will be conducted in the following manner: Questions will be posed to the chair of the Conduct Hearing Board (CHB) and if the question is deemed appropriate and relevant the chair of the CHB will instruct the witness to answer the question posed. The chair of the CHB will, if necessary, repeat the question for the witness.

11. HEARINGS BEFORE THE CONDUCT HEARING BOARD

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

11.1.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;

11.1.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;

11.1.c. a written notice of the date, time, and place of the hearing forwarded to the accused at least five (5) calendar 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() calendar days from the date of the original charge letter, unless the student charged waives the limit; and/or
11.1.d. a pre-hearing interview with the director of Student Conduct or his/her designee where all these rights, responsibilities, and procedures are explained.

11.2 In cases of serious violations (a violation which the possible sanctions include suspension or dismissal) a written notice of the formal charges must be provided to the student. The hearing date for these charges may not be scheduled for at least ten (10) calendar days prior to the hearing unless the student waives all or part of the notice.

12. DUTIES OF THE CONDUCT HEARING BOARD

12.1 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 CHB. The CHB will:

12.1.a. rule on the admissibility of information, motions, and objections to procedures;

12.1.b. set forth finding of facts;

12.1.c. render a written decision as to the accused student’s responsibility or non-responsibility for the charges;

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

12.1.e. provide the vice chancellor for Student Affairs with a copy of the decision.

13. DUTIES OF THE DIRECTOR OF STUDENT CONDUCT

13.1 The director of Student Conduct or his/her designee shall:

13.1.a. consult the CHB in setting the date, time, and place of the hearing; and

13.1.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) calendar 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 CHB, for good cause, may postpone the hearing and notify all interested persons of the new hearing date, time, and place.

13.2 A letter mailed under paragraph 13.1.b. shall:

13.2.a. direct the student charged to appear at a date, time, and place specified;

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

i. to appear in person, hear all testimony, present any relevant information on his/her behalf, call witnesses, and ask questions (see paragraph 10.5) of any person present at the hearing;
ii. to elect not to appear at the hearing. The hearing then shall be conducted in the student's absence;

iii. 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;

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

v. to question each witness (see paragraph 10.5) who will testify against him/her for the purpose of clarification;

vi. 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;

vii. 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 (see paragraph 10.5). 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;

viii. to have a summary of the hearing record; and

ix. to appeal.

13.2.c. contain the name of the person appointed to act as chair of the CHB;

13.2.d. 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;

13.2.e. contain a copy of the complaint; and

13.2.f. 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.

13.3 If a student fails, without good cause, to comply with the letter sent under this section, the CHB may proceed with the hearing in the student’s absence.

14. REPRESENTATION DURING DISCIPLINARY PROCEDURES
14.1 In accordance with North Carolina General Statute §116-40.11[1], students and student organizations at UNC Pembroke who have been accused of a violation of disciplinary or conduct rules may be represented, at the student’s expense, by a licensed attorney or a non-attorney advocate during any disciplinary procedure except when the violation:

14.1.a. will be heard by a Student Honor Court; or

14.1.b. is an allegation of academic dishonesty, as defined by UNC Pembroke.

14.2 When scheduling disciplinary procedures, UNC Pembroke will make reasonable efforts to accommodate a licensed attorney or non-attorney advocate. However, the availability of students or student organization members; witnesses; the designated administrator, panel members, or board members assigned to the matter; and other necessary participants may take priority when determining the date and time for a disciplinary procedure.

14.3 Nothing in this policy shall be construed to create a right to be represented during a disciplinary procedure at public expense.

14.4 In order for a licensed attorney or non-attorney advocate to represent a student or student organization in a disciplinary procedure, the student or student organization must provide the Office of Student Conduct with the three (3) documents described below. These three (3) documents must be submitted three (3) business days prior to the scheduled hearing.

14.4.1 Notice of Representation

14.4.1.1 Students and student organizations that plan to have a licensed attorney or non-attorney advocate represent them during a disciplinary procedure must notify the Office of Student Conduct in writing of the attorney’s or advocate’s planned participation in a disciplinary procedure. This notice must specify:

14.4.1.1.a. the identity of the licensed attorney or non-attorney advocate;

14.4.1.1.b. whether the individual is a licensed attorney or a non-attorney advocate; and

14.4.1.1.c. an address, telephone number, and email address where the licensed attorney or non-attorney advocate can be reached.

14.4.2 FERPA Authorization

14.4.2.1 In order for a licensed attorney or a non-attorney advocate to represent a student or student organization during a disciplinary procedure or to speak with an official of the Office of Student Conduct regarding the student or the members of a student organization, the student must complete and submit a written authorization that meets the requirements of a valid consent as specified by the Family Educational Rights and Privacy Act (FERPA).
14.4.2.2 Even if a student executes a valid FERPA consent authorizing the licensed attorney or non-attorney advocate to receive information or documents regarding the student, UNC Pembroke shall at all times correspond directly with the student or student organization. It is the student’s or student organization’s responsibility to communicate and share information with a licensed attorney or non-attorney advocate.

14.4.3 Certification by Licensed Attorney or Non-Attorney Advocate

14.4.3.1 Students or student organizations that plan to have a licensed attorney or non-attorney advocate represent them during a disciplinary procedure must submit a certification form signed by the licensed attorney or non-attorney advocate stating that the licensed attorney or non-attorney advocate has read in their entirety and understood the following documents:

14.4.3.1.a. Section IV of the UNCP Student Handbook for the current academic year; and

14.4.3.1.b. Section 700.4.1. of the UNC Policy Manual.

14.5 Licensed attorneys or non-attorney advocates may fully participate in disciplinary procedures only to the extent afforded to the student or student organization they represent. Additionally, licensed attorneys and non-attorney advocates may not delay, disrupt, or otherwise interfere with a disciplinary procedure.

14.6 An attorney or other individual representing UNC Pembroke may participate in disciplinary procedures in which a licensed attorney or non-attorney advocate represents a student or a student organization.

15. HEARING PROCEDURE

15.1 The CHB shall proceed generally as follows during the hearing:

15.1.a. conduct hearings shall be closed to the public;

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

15.1.c. the director of Student Conduct or his/her designee presents the university’s case;

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

15.1.e. the director of Student Conduct or his/her designee and the student defendant present rebuttal evidence and arguments;

15.1.f. the CHB deliberates and decides the issue of responsibility or non-responsibility;
15.1.g. if the CHB finds the charged student responsible, the director of Student Conduct or his/her designee and the charged student may present evidence and arguments on an appropriate penalty;

15.1.h. the CHB deliberares 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.)

15.1.i. the CHB 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

15.1.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.

16. HEARING RECORD

16.1 The hearing record is confidential and consists of:

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

16.1.b. a written summary of the hearing together with other material considered by the CHB; and

16.1.c. the decision(s) of the CHB.

17. APPEAL OF ADMINISTRATIVE/CONDUCT HEARING BOARD DECISION

17.1 In the event that a charged student disagrees with a finding of responsible or sanction of an administrative hearing officer or the CHB, the charged student may request an appeal to the Conduct 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 CAB 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.

17.2 The CAB shall be composed of the chair of the faculty senate who will serve as chair of the CAB, 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.

17.3 A quorum shall consist of any three (3) members, including the chair.
17.4 The function of the CAB is that of reviewing the action of the administrative hearing officer or the CHB to determine if: (1) An alleged violation of the rights guaranteed the accused has occurred; (2) the sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s); and/or (3) discovery of new and significant information that would have affected the outcome of the hearing and that was not known, or could not reasonably have been discovered and/or presented at the time of the hearing.

(when the sanction is expulsion, please see expulsion regulation, Section IV, Rights and Responsibilities of the UNC Pembroke Student Handbook.)

17.5 The CAB shall receive the petition from a student choosing to appeal the decision of an administrative hearing or a CHB 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.

17.6 Upon receiving a petition, the CAB shall obtain the record of the administrative hearing officer or the CHB. 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.

17.7 With this information, the CAB shall decide whether an appeal hearing is warranted. This decision is based upon the three options for an appeal outlined in Section 17.4 above. The CAB shall notify the petitioner in writing of its decision within seven (7) calendar days after receiving the student’s petition.

17.8 If the Conduct Appeal Board determines that a hearing should be granted, that hearing shall be held within seven (7) calendar 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.

17.9 The CAB shall invite the appellant, the respective administrative hearing officer, or the chairperson of the CHB, 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.

17.10 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.

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

17.12 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 Conduct
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 Conduct 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 of the CAB to the director of student conduct who will submit the appeal to the chancellor or his/her designee.

17.13. In cases where the appeal is based upon the foundation that “the sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s),” the Conduct Appeal Board may determine to review only the sanctions as provided and issue a determination. The CAB has the authority to approve, reject, or modify sanctions.

18. APPEAL OF A CONDUCT APPEAL BOARD (CAB) DECISION

18.1 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.

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

18.2.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: (1) An alleged violation of the rights guaranteed the accused has occurred; (2) the sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s); and/or (3) discovery of new and significant information that would have affected the outcome of the hearing and that was not known, or could not reasonably have been discovered and/or presented at the time of the hearing.

18.2.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;

18.2.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 Conduct Appeal Board’s decision;

18.2.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) factors for an appeal, which are
stated in 18.2.a. above. The chancellor shall notify the petitioner in writing of his/her decision within seven (7) class days after receiving the student’s petition;

18.2.e. if the chancellor or his/her designee determines that a hearing shall be granted, that hearing shall be held within seven (7) calendar days of such determination and notification shall be given in writing at least three (3) calendar 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;

18.2.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

18.2.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.

18.3 In cases where the appeal is based upon the foundation that “the sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s),” the chancellor or his/her designee may determine to review only the sanctions as provided and issue a determination. The chancellor or his/her designee has the authority to approve, reject, or modify sanctions.

**19. STUDENT ORGANIZATION DISCIPLINARY PROCESS**

19.1 Preliminary Investigation

19.1.a. When the Office of Fraternity and Sorority Life, Office of Student Involvement and Leadership, or Office of Student Conduct receive information that a student organization has allegedly violated university policies or local, state, or federal law, the director of Student Conduct shall investigate the alleged violation.

19.1.b A cease and desist order for all organization operations may be issued, if necessary, by the Office of Student Conduct in collaboration with the Office of Fraternity and Sorority Life or the Office of Student Involvement and Leadership.

19.1.c After completing a preliminary investigation, the director of Student Conduct or his/her designee may: (1) find no basis for the complaint and dismiss the allegation as unfounded; or (2) summon the student organization for a pre-hearing interview and then either dismiss the allegation, or provide the student organization with an outline of the Conduct Hearing Board process.

19.2 Options for Resolution of Disciplinary Charges for Student Organizations
19.2.a Plead not responsible to the charge(s) and have a hearing before the CHB where a determination of responsibility will be made. If the student organization is held responsible by the CHB, an appropriate sanction will be determined.

19.2.b Plead responsible to the charge(s) and request that the CHB determine an appropriate sanction.

19.2.c If a student organization is referred to the CHB and then is cited for an additional violation(s) in the interim, the student organization will be placed on Loss of Recognized Student Organization Status for no less than one (1) semester.

19.2.d A student organization has a right of appeal to the Conduct Appeal Board (CAB) and then to the chancellor or his/her designee.

19.2.e 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 CHB during the next fall/spring semester.

19.2.f Prior to the CHB hearing the student organization will receive written notice of the charge(s) and an outline of their rights at least ten (10) calendar days prior to the hearing. In the event that additional charges are brought, a further written notice must be forwarded to the student organization in accordance with Section 8 (Disciplinary Correspondence) of this policy;

19.2.g A review of all available information, documents, exhibits, and a list of witnesses that may testify against the student organization. This is a continuing obligation of the complaining party and the director of Student Conduct or his/her designee;

19.2.h Information, documents, exhibits, etc. provided by the director of Student Conduct or his/her designee shall have all names and personal information redacted in order to protect the witnesses and/or victim(s).

19.2.i A choice to elect not to appear at the hearing. The hearing shall be conducted in the student organization’s absence;

19.2.j A written notice of the date, time, and place of the hearing forwarded to the accused organization president and faculty/staff advisor at least five (5) calendar days prior to the hearing.

19.2.k If the student organization chooses to waive the ten-day (10) notice of the CHB hearing, the organization shall do so by executing a signed writing under the supervision of the Office of Student Conduct.

19.2.l The student organization will complete a pre-hearing interview with the director of Student Conduct or his/her designee prior to the CHB hearing. During this meeting all organization rights, responsibilities, and procedures will be explained.
19.3 Disciplinary Correspondence

19.3.a. All disciplinary correspondence will be sent to the student organization via Maxient (conduct database) and/or via university email from the director of Student Conduct or his/her designee. All correspondence will be sent to the president of the organization, the organization on-campus advisor, and to the appropriate supervising department over the organization. The university reserves the right to use other reasonable means to notify student organizations.

19.4 Representation During Disciplinary Proceedings

19.4.1 In accordance with North Carolina General Statute §116-40.11[1], students and student organizations at UNC Pembroke who have been accused of a violation of disciplinary or conduct rules may be represented by a licensed attorney or a non-attorney advocate during any disciplinary procedure except when the violation:

19.4.1.a. will be heard by a Student Honor Court; or

19.4.1.b. is an allegation of academic dishonesty, as defined by UNC Pembroke.

19.4.2 A student organization shall have the same expectations as an individual student as outlined in Section 14, “Representation During Disciplinary Proceedings,” of this policy.

19.5 Conduct Hearing Board (CHB)

19.5.a. The Conduct Hearing Board Process will operate as directed under the Student Disciplinary Process (Sections 9, 10, 12, and 15).

19.5.b. A student organization shall have the same expectations and procedures as an individual student as outlined in Section 15, “Hearing Procedure,” of this policy.

19.5.c. All members of the student organization executive leadership may be present for the CHB hearing at the discretion of the Office of Student Conduct, Office of Fraternity and Sorority Life, or the Office of Student Involvement and Leadership.

19.5.d. After the completion of the hearing, the accused student organization, the Office of Student Conduct, and the appropriate supervising department (Office of Fraternity and Sorority Life, Office of Student Involvement and Leadership, etc.) shall each be given a copy of the decision. All sanctions provided to a student organization will be communicated to the appropriate National/International Office (if applicable).

19.6 Appeal of Conduct Hearing Board/Conduct Appeal Board Decision

19.6.a. Student organizations are provided the same appeal process as outlined for individual students. Refer to Student Disciplinary Procedures Section 17 “Appeal of Administrative/Conduct Hearing Board Decision” and Section 18 “Appeal of a Conduct Appeal Board Decision.”
19.6.b. The foundation(s) for appeal are as follows: (1) An alleged violation of the rights guaranteed the accused has occurred; (2) the sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s); and/or (3) discovery of new and significant information that could have affected the outcome of the hearing and that was not known, or could not reasonably have been discovered and/or presented at the time of the hearing.

20. COMMITTEE ON EXTRAORDINARY DISCIPLINARY EMERGENCIES

20.1 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 The Code Appendix I, Sections XII and XV; and the UNCP Code of Conduct.

20.2 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:

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

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

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

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

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

20.3.a. students or student organizations who have been arrested or charged with a serious crime of a violent nature, 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

20.3.b. students subject to summary suspension.

20.4 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 finance and administration 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 chair of the faculty senate or his/her designee, and the president of the student body or his/her designee.

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

20.4.2 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.

20.5 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.

20.5.1 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.

20.5.2 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) calendar 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 responsibility or non-responsibility 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 seven (7) calendar days of the student’s request for a hearing.

21. TRAFFIC APPEALS BOARD

21.1 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.

[1] This act is effective when it becomes law and applies to all allegations of violations beginning on or after July 1, 2013.