



The University of North Carolina

GENERAL ADMINISTRATION

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Constituent Universities
Appalachian State
University

East Carolina
University

Elizabeth City
State University

Fayetteville State
University

North Carolina
Agricultural and
Technical State
University

North Carolina
Central University

North Carolina
State University
at Raleigh

University of
North Carolina
at Asheville

University of
North Carolina
at Chapel Hill

University of
North Carolina
at Charlotte

University of
North Carolina
at Greensboro

University of
North Carolina
at Pembroke

University of
North Carolina
at Wilmington

University of
North Carolina
School of the Arts

Western Carolina
University

Winston-Salem
State University

Constituent High School
North Carolina
School of Science
and Mathematics

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December 18, 2009

TO: Members, Committee on Educational Planning, Policies and Programs

FROM: Alan Mabe

SUBJECT: Proposed Policy for Student Conduct Codes

Background: Due to an incident on one of our campuses, the President appointed a Commission to Review Student Codes of Conduct as they Relate to Hate Crimes in November 2008. The Commission reported its results in March 2009. The Report was presented to the Committee on Educational Planning, Policies, and Programs in September 2009. Based on that report, an addition to the policies regarding Student Conduct Codes is proposed.

Jurisdictional Authority: The Code 100.1, 301 C: It [Committee on Educational Planning, Policies, and Programs] shall receive the advice and recommendations of the president and make recommendations to the board in all areas pertaining to the development of a coordinated system of higher education in North Carolina, including...matters concerning the involvement of students in the University and in university life....

Issues: In addition to providing a rationale for the policy, the primary content of the proposed new policy is to identify provisions that all student conduct codes must include in addition other provisions in campus student conduct codes.

Recommendation: General Administration recommends that the Committee approve the propose policy and give notice that it will bring the policy to the Board for a vote in February.

POLICY ON STUDENT CONDUCT**1. Purpose.**

The Code of the University of North Carolina describes the University as an academic community “dedicated to the transmission and advancement of knowledge and understanding.” Pursuant to *The Code*, the Board of Governors is committed to supporting and encouraging “freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.” *The Code* also provides: “The University and each constituent institution shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.”

These freedoms come with certain responsibilities. Faculty and students “share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.” Students, specifically, must conduct “themselves in a manner that helps to enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.”

Balancing these freedoms and responsibilities can be challenging. The Board of Governors is committed to preserving and protecting these freedoms, while recognizing that certain conduct which intentionally targets a person or identifiable group of persons based upon the person’s or identifiable group’s race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status may interfere with the University’s core mission of advancing knowledge and understanding. Accordingly, to support and assist the constituent institutions of the University of North Carolina in their continuing efforts to advance the University’s mission, the Board of Governor’s adopts this policy. This Policy is not intended to expand the legal rights of any person or identifiable group of persons under state or federal law.

Every constituent institution has adopted a student code of conduct that establishes rules and regulations concerning student conduct and discipline. All such codes of conduct address criminal and unlawful conduct, as well as behaviors that violate University policies, rules or regulations. University Policy 700.4.1 sets forth the minimum procedural and substantive due process standards applicable to student disciplinary proceedings. This companion policy reflects recommendations received by the President on March 31, 2009 from the UNC Study Commission to Review Student Codes of Conduct Relating to Hate Crimes. It sets forth provisions for inclusion in all UNC campus student codes of conduct. These provisions are not exclusive. Student codes of conduct may include other provisions not inconsistent with these

mandatory provisions. This policy also accommodates the different legal standards that may apply to the high school programs at the North Carolina School of Science and Mathematics and the UNC School of the Arts.

2. Mandatory provisions.

a) The following statements shall be included in all codes of student conduct:

(i) The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the U.S. Constitution and the North Carolina Constitution. The University has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights.

(ii) All students are responsible for conducting themselves in a manner that helps enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.

(iii) Violations of campus or University policies, rules or regulations, or federal, state, or local law may result in a violation of the student code of conduct and imposition of student discipline.

b) The following provisions addressing specific student conduct that could lead to disciplinary action shall be included:

(i) No student shall threaten, coerce, harass or intimidate another person or identifiable group of persons, in a manner that is unlawful or in violation of a constitutionally valid University policy, while on University premises or at University-sponsored activities based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status.

(ii) No student shall engage in unlawful harassment leading to a hostile environment. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria: it is (a) directed toward a particular person or persons; (b) based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status; (c) unwelcome; (d) severe or pervasive; (e) objectively offensive; and (f) so unreasonably interferes with the target person's employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University's resources and opportunities.

(iii) In determining whether student conduct violates these provisions, all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. Advice should be sought from campus attorneys, as appropriate.

3. Discipline.

Disciplinary measures and/or penalties shall be in accordance with procedural and substantive due process safeguards applicable to disciplinary actions as required by Section 502D(3) of the Code, Policy 700.4.1, and applicable campus policies.

4. Education and Awareness.

University and campus attorneys, student affairs personnel, and campus law enforcement shall familiarize themselves and remain current regarding legal standards applicable to targeting individuals based upon race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status through (a) unlawful threats or (b) unlawful harassment creating a hostile environment as defined in this policy.