

## Report on Technical Corrections to *The Code* /UNC Policy Manual - Attachment A

<i>The Code</i> /UNC Policy Manual	UNC Policy Manual - Chapter	Policy/ Regulation/ Guideline	Section(s)	Technical Correction(s)	Effective Date (Posted to Webpage)
UNC Policy Manual	Chapter 700, Admissions, Matriculation, and Other Student Matters	Policy	700.4.1, Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings	Insert missing word in first paragraph, and revise reference to "The Code" to be consistent with later amendments to the UNC Policy Manual.	8/19/2019
UNC Policy Manual	Chapter 1300, Matters of University-Wide Significance	Policy	1300.8, Policy on Free Speech and Free Expression Within the University of North Carolina System	Update references made to "UNC General Administration" to "UNC System Office," and UNC System; and other Style Guide corrections consistent with later amendments to the UNC Policy Manual.	8/19/2019

700.4.1

Adopted 11/08/02

Amended 07/01/07

Amended 08/23/13

Amended 07/27/18

Technical Corrections / /19

### **Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings**

The purpose of this policy is to establish legally supportable, fair, effective and efficient procedures for student disciplinary proceedings. The minimum standards for these proceedings are set out below. These minimum standards exceed the requirements of due process and therefore complying with these requirements will also result in providing due process.

I. Elements of Policy. The two kinds of standards that must be followed are procedural standards and substantive standards.

II. Procedural. The procedural standards require notice and an opportunity for a hearing. The formality of these provisions will vary depending on the seriousness of the offense. (See sections V., and VI., below.)

III. Substantive. Substantive standards require that the decision reached be neither arbitrary nor capricious. Generally, this means that there is some evidence to support the decision reached.

IV. Code of Student Conduct. Each constituent institution must adopt a code of student conduct that:

A. Is applicable to all students;

B. Defines what conduct is prohibited; and

C. Specifies the types of sanctions that may be imposed for each category of prohibited conduct. Ranges of violations and ranges of sanctions are permissible.

Progressive sanctions for multiple violations are also legitimate. A periodic review of the code should be undertaken to ensure it remains in compliance with applicable laws, policies and regulations.

V. Requirements for Minor Violations. A minor violation is one for which the possible sanctions are less than suspension and expulsion.

A. Procedural Requirements.

1. A constituent institution may receive and, in its discretion, investigate reports of incidents of student misconduct. A student may be accused of a violation of the code of student conduct only by a designated university official with a formal charge initiating a disciplinary proceeding. A determination to initiate a disciplinary proceeding accusing a student of a violation of the code of student conduct should be made by a designated

university official within a reasonable period of time after the constituent institution receives the report.

2. If a charge is to be pursued, it is then referred to a hearing official or body. The student must be notified in writing of the alleged violation(s), the referral and the hearing date. The hearing should not be scheduled for at least five (5) calendar days after the student receives the notice, unless the student agrees to an earlier hearing date. A committee member or the hearing official who has a conflict with, bias about or interest in the case should recuse himself. If the committee member or the hearing official refuses to recuse himself, a designated university official shall make the recusal decision.

3. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with section IV., above. The waiver and acceptance must be in writing and signed by the student.

4. If a hearing is held, it may occur as a meeting between the hearing committee/official and the student. It will be a closed meeting. The institution shall assure that students have the capability to present their evidence and defenses at the meeting or hearing. Witness testimony and documents may be received from both the designated university official and the student, who will both be present during all of the evidentiary presentation. At the end of the hearing, the committee/official will determine whether the designated university official has shown by a preponderance of the evidence that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing or meeting. The committee/official will also determine the appropriate sanction within the ranges specified in the definitions in Section IV, above.

5. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed 45 calendar days after the date of the hearing. The final administrative decision must be transmitted to the student in writing within 10 calendar days of the date the decision is made, and it must contain a brief summary of the evidence upon which the decision is based.

6. Appeal rights must be specified in the decision letter. At least one level of administrative appeal must be permitted and the time in which to appeal and the permitted grounds for the appeal must be articulated. Further appellate opportunities shall be governed by Section 502 D(3) of *The Code of the University of North Carolina* ([The Code](#)).

B. Substantive Requirements. In each case there must be sufficient evidence supporting the decision and the sanction.

VI. Serious Violations. A serious violation is one for which the possible sanctions include suspension or expulsion.

A. Procedural Requirements:

1. A constituent institution may receive and, in its discretion, investigate reports of incidents of student misconduct. A student may be accused of a violation of the code of student conduct only by a designated university official with a formal charge initiating a disciplinary proceeding. A determination to initiate a disciplinary proceeding accusing a student of a violation of the code of student conduct should be made by a designated university official within a reasonable period of time after the constituent institution receives the report.
2. Written notice to the student must be provided if a decision is made to issue a formal charge against the student. The notice should specify the offense(s) charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses which could result in expulsion, the notice must include this possibility and must specify that expulsion precludes matriculation at any UNC constituent institution.
3. A formal charge is then referred to a hearing official or body. The student must be notified in writing of the referral. This notice may include a hearing date. The hearing date may not be scheduled for at least 10 calendar days after the student receives notice of the referral, unless the student agrees to an earlier hearing date. Reasonable extensions of time for either party to prepare for the hearing should be allowed.
4. If a hearing date is not set in the notice of the charge, written notice of the hearing date must be sent to be received by the student not less than five calendar days before the proceeding is scheduled for hearing.
5. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with section IV., above. The designated university official must determine that the waiver and acceptance is voluntary and that the charge and sanction have factual support. The waiver and acceptance must be in writing and signed by the student and the designated university official.
6. Prior to the hearing, the student must be given the opportunity to review any written evidence that will be used at the hearing and to obtain a list of witnesses.
7. A committee member or hearing official who has a conflict with, bias about or an interest in a case must recuse himself. If the committee member refuses to recuse himself, a designated university official will make the recusal decision. The student must also be given the opportunity to challenge a committee member or hearing official on these grounds. The decision on the challenge must be made by the committee or official within five calendar days. If necessary, a substituted committee member or hearing official will be appointed.
8. The institution shall assure that students have the capability to present their evidence and defenses at the hearings. The method for assuring this capability may vary depending on the nature of the case and on the nature of the representation of the institution or the charging party. Each institution must have a policy delineating the

participation or prohibition of attorneys and non-attorney advocates. Representation or assistance by attorneys or non-attorney advocates at the hearing is neither required nor encouraged.

9. The hearing will be closed to the public, unless a constituent institution's policy provides otherwise.

10. A transcript or other verbatim record of the hearing (but not of the deliberations) will be prepared. The institution will be responsible for the costs of this record.

11. At the hearing, a designated university official must present sufficient witness and/or documentary evidence to establish the violation. The student must be given an opportunity to question this evidence, either by direct questions or inquiries transmitted through the committee or hearing official.

12. The student must be given the opportunity to present any witness or documentary evidence that the student offers, provided that the evidence is relevant to the charge or other evidence presented and does not otherwise infringe the rights of other students.

13. At the conclusion of the evidence, the committee/official will determine whether the charging official has shown by a preponderance of the evidence, or by such higher standard as the institution may adopt, that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing. The committee or official will also determine the appropriate sanction within the ranges specified in accordance with section IV., above.

14. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed 45 calendar days after the hearing is completed. The final administrative decision must be transmitted in writing to the student within ten (10) calendar days of the date the decision is made and must contain a brief summary of the evidence upon which the decision is based.

15. A vice chancellor or the vice chancellor's delegate must make the final administrative determination in all suspension cases. The delegation may be to a student committee or a student/employee committee.

16. The chancellor or a vice chancellor must make the final administrative decision in all expulsion cases.

17. Appeal rights must be specified in the final decision letter. At least one level of institutional appeal must be permitted, and the time limits in which to appeal and the permitted grounds for appeal must be articulated.

18. Further appeals shall be governed by *The Code of the University of North Carolina*.

B. Substantive Requirements. In each case there must be sufficient evidence supporting the decision and the sanction.

VII. Special Cases

A. If the formal charge is also the subject of pending criminal charges, the institution must, at a minimum, allow an attorney advisor to accompany the student to the hearing.

B. Charges against multiple students involved in the same incident may be heard in a single case only if each student defendant consents to such a proceeding.

C. In cases of alleged sexual misconduct, both parties are entitled to the same opportunities to have others present during a disciplinary proceeding.<sup>1</sup>

D. Victims of crimes of violence must be notified of the results of the disciplinary proceeding of the alleged assailant. "Results" means the name of the student assailant, the violation charged or committed, the essential findings supporting the conclusion that the violation was committed, the sanction if any is imposed, the duration of the sanction and the date the sanction was imposed.<sup>2</sup>

E. When a student with a disability is charged with an offense, the institution will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act are met.

VIII. Other Matters

A. Effective Date. The requirements of this policy shall be effective on the date of its adoption by the Board of Governors and shall apply to all disciplinary proceedings initiated on or after August 1, 2018.

B. Relation to Federal and State Laws. The foregoing policy as adopted by the Board of Governors is meant to supplement, and does not purport to supplant or modify, those statutory enactments which may govern or relate to the subject matter of this policy.

C. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

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<sup>1</sup> The term "sexual misconduct" includes sexual assault, sexual battery, sexual coercion, rape, stalking, sexual violence and other forms of sexual misconduct. Furthermore, "both parties" refers specifically to the individual who claims to have been the victim of the sexual misconduct and the student who is alleged to have engaged in sexual misconduct.

<sup>2</sup> The disciplinary records of high school students at the North Carolina School of Science and Mathematics described in sections VII.C., and D., of this policy may not be disclosed without appropriate consent. [CFR 99.31(a)(13)]

**Policy on Free Speech and Free Expression Within the University of North Carolina System****I. Purpose**

Consistent with Article 36 of Chapter 116 of the North Carolina General Statutes, the Board of Governors adopts this policy to support and assist the constituent institutions of the University of North Carolina System<sup>1</sup> in their continuing efforts to embrace the free speech and free expression rights of the members of their campus communities, and balance those rights with protections against unlawful activity. This policy supplements other University policies, regulations, and guidelines related to free speech and free expression.<sup>2</sup>

**II. Statement of Commitment**

As the nation's first public university, the University of North Carolina affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, to study and to evaluate, to gain new maturity and understanding.<sup>3</sup> The University supports and encourages 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.<sup>4</sup> The University has explicitly stated that faculty and students of the University share 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.<sup>5</sup> Academic freedom has indeed been acknowledged by the Supreme Court as "of transcendent value to all of us" and "a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."<sup>6</sup> Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.<sup>7</sup>

The General Assembly has recognized the University's commitment to upholding free speech and free expression, and has reinforced the importance of these rights as well.<sup>8</sup> Through ~~N.C.~~G.S. §116-300, the General Assembly has affirmed that the primary function of the University of North Carolina and each of its constituent institutions is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.

### III. University's Role in Public Policy Controversies

The University's role in supporting and encouraging freedom of inquiry requires assuring opportunities for the expression of differing views regarding many issues in multiple areas of study, research, and debate, including current political and social issues. The constituent institutions serve an essential role in encouraging and broadly protecting freedom of thought and expression. In support of the essential role universities hold, the constituent institutions may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

### IV. Free Expression at UNC System Constituent Institutions, Including Access to Campus

Students, staff, and faculty have the freedom to discuss any problem that presents itself, as the First Amendment permits and within the limits of viewpoint- and content-neutral restrictions on time, place, and manner of expression that are necessary to achieve a significant institutional interest. The constituent institutions must assure that any such restrictions are clear, published, and provide ample alternative means of expression.

Students, staff, and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the constituent institution, subject to the requirements of this policy. A "material and substantial disruption" includes, but is not limited to, any or all of the following:

- A. Any action that qualifies as disorderly conduct under ~~N.C.~~G.S. §14-288.4;
- B. Any action that qualifies as a disruption under ~~N.C.~~G.S. §143-318.17;
- C. Any action in violation of a chancellor's designation of a curfew period pursuant to ~~N.C.~~G.S. §116-212;
- D. Any action that results in the individual receiving a trespass notice from law enforcement.

Access to campus for purposes of free speech and expression shall be consistent with First Amendment jurisprudence regarding traditional public forums, designated public forums, and nonpublic forums. Consistent with First Amendment jurisprudence, including any reasonable time, place, and manner restrictions adopted by a constituent institution, campuses of the constituent institutions are open to any speaker whom students, student groups, or members of the faculty have invited.

Even so, all real property on the campus of any constituent institution or the UNC General AdministrationSystem Office, including without limitation all campus grounds, buildings, facilities, stadiums, or other improvements, that is owned, leased, used, or otherwise controlled by the University or one of its constituent institutions ("University Property"), is dedicated for the specific purpose of furthering the educational, research, and/or service missions of the institution. Consistent with the First Amendment, many areas of University Property are not open for general public use. University Property is routinely utilized for institutional activities and events which can present safety and security issues for the institution. Therefore, all persons on University Property must abide by all applicable laws and regulations as well as policies of the constituent institution and the Board in order to further the missions of the institution and for the protection of the students, faculty members, staff employees and guests of

the institution. Thus, a constituent institution may deny or condition entrance onto or into University Property or remove from the same, any person whose presence substantially interferes with or materially and substantially disrupts the institution's missions, including interfering with or disrupting the classroom environment, laboratory or research environments, or patient care environments, or any person who violates or refuses to comply with any Board or institutional policy or applicable law or regulation. Under no circumstances shall University Property be utilized to carry out unlawful activity.

V. Speech and Expression Not Protected by Policy

Except as further limited by this policy, constituent institutions shall be allowed to restrict speech and expression for activity not protected by the First Amendment under State or federal law, including but not limited to, all of the following:

- A. Expression that a court has deemed unprotected defamation.
- B. Unlawful harassment.
- C. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- D. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- E. An action that materially and substantially disrupts the functioning of ~~the UNC General Administration~~System Office, a constituent institution, or any other unit or entity of the University, or that substantially interferes with the protected free expression rights of others.
- F. Reasonable time, place, and manner restrictions on expressive activities, consistent with ~~N.C.G.S. §~~ 116-300(4).
- G. Speech that interferes with the treatment of patients.

VI. Dissemination of Information About Institutional Policies

- A. Information for Students. All constituent institutions of the University of North Carolina System shall include in any new student orientation programs a section describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided also should include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.<sup>9</sup>

The constituent institutions are required to periodically provide this same information to all students, including returning undergraduate students, transfer students, and graduate and professional students.

B. Information for Faculty and Staff. All constituent institutions of the University of North Carolina System are required to periodically provide to faculty and staff information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

C. Information for Outside Parties. All constituent institutions of the University of North Carolina System are encouraged to make available to outside parties information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

## VII. Consequences for Violation of Policy

The right to dissent is the complement of the right to participate in expressive activity, but these rights need not occupy the same forum at the same time. The constituent institutions are encouraged to work with students, faculty members, and staff employees to develop alternative approaches so as to minimize the possibility of disruptions and support the right to dissent.

A. Disciplinary Sanctions. The UNC General Administration System Office and each constituent institution shall implement and enforce a range of disciplinary sanctions, up to and including dismissal or expulsion, for anyone under the jurisdiction of the UNC General Administration System Office or the constituent institution who materially and substantially disrupts the functioning of the UNC General Administration System Office, a constituent institution, or any other entity or unit of the University, or substantially interferes with the protected free expression rights of others.<sup>10</sup>

A “material and substantial disruption” or “substantial interference” is any action that qualifies under section IV of this policy. Such actions include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (1) has been scheduled pursuant to this policy or other relevant institutional policy, and (2) is located in a nonpublic forum. In determining whether an action is a “material and substantial disruption” or “substantial interference,” the UNC General Administration System Office or the constituent institution should consider the degree to which the disruptive activity impedes access to or from any scheduled institution events or the degree to which the activity impedes an audience’s ability to see and hear the expressive activity.

For example, when an expressive activity event is closed to the public, dissent by non-attendees should be limited to activity outside the event that does not impede access or departure from the meeting or substantially interfere with communication inside. When the event is open to the public, whether the dissenters’ actions constitute a substantial disruption or interference will depend upon whether the dissenter is inside or outside the event, and on whether the dissenter is acting before or after the event or during the event. However, it is a

substantial disruption or interference for such dissent to interfere substantially with the free flow of traffic into or out of the event or to interfere substantially with the expressive activity.

Anyone who substantially interferes with acceptable forms of dissent is also considered in violation of this policy in the same way as a dissenter who violates the rights of the speaker or the audience.

1. Any University student, faculty member, or staff employee who is found to have materially and substantially disrupted the functioning of the UNC General Administration System Office, a constituent institution, or any other unit or entity of the University, or substantially interfered with the protected free expression rights of others shall be subject to a full range of disciplinary sanctions according to the appropriate disciplinary procedures for misconduct, including suspension, or, as appropriate, expulsion or dismissal. Any second finding of a material and substantial disruption or substantial interference shall presumptively result in at least a suspension as provided by the appropriate disciplinary procedures; however, the institution may impose a different sanction if warranted. Any third finding of a material and substantial disruption or substantial interference shall presumptively result in an expulsion of the student or dismissal from employment of the faculty member or staff employee; however, the institution may impose a different sanction if warranted.

2. Any guest or other individual on the campus who is alleged to have substantially disrupted the functioning of the UNC General Administration System Office or the constituent institution or substantially interfered with the protected free expression rights of others may be temporarily or permanently barred from all or part of the campus along with facing any other criminal charges, as determined by appropriate law enforcement authorities.

3. Any individual who disrupts a meeting of a public body, including University boards, may be temporarily or permanently barred from all or part of the campus or from future meetings of that public body, and/or may face criminal charges. If such individual is a student or faculty member or staff employee of the University, he or she shall also be subject to discipline according to the appropriate disciplinary procedures for misconduct by his or her constituent institution even if the disruption occurs at a meeting of a public body of a constituent institutions other than the institution which the individual is affiliated.<sup>11</sup>

B. Procedural Safeguards for Students Involved in Expressive Speech or Conduct Disciplinary Cases.<sup>12</sup> In all student disciplinary cases where disciplinary action is proposed for materially and substantially disrupting the functioning of the UNC General Administration System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, students are entitled to a disciplinary hearing under published procedures and Section 700.4.1 of the UNC Policy Manual, ~~Section 700.4.1~~, including, at a minimum:

1. The right to receive advance written notice of the charges;
2. The right to review the evidence in support of the charges;

3. The right to confront witnesses against them;
4. The right to present a defense;
5. The right to call witnesses;
6. A decision by an impartial arbiter or panel;
7. The right of appeal; and
8. The right to active assistance of counsel, consistent with ~~N.C.~~G.S. §116-40.11.

C. Procedural Safeguards for Faculty Members Involved in Expressive Speech or Conduct Disciplinary Cases. In all faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for materially and substantially disrupting the functioning of the UNC General AdministrationSystem Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, faculty members are entitled to the procedural protections provided by Sections 603, 604, and 609 of *The Code*.

D. Procedural Safeguards for EHRA Non-Faculty Employees Involved in Expressive Speech or Conduct Disciplinary Cases.<sup>13</sup> In all EHRA non-faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, EHRA non-faculty employees are entitled to the procedural protections provided by Sections 300.1.1 and, 300.2.1 of the UNC Policy Manual and any additional protections established by the UNC General AdministrationSystem Office or the constituent institution's relevant disciplinary and grievance policies.

E. Procedural Safeguards for SHRA Employees Involved in Expressive Speech or Conduct Disciplinary Cases. In all SHRA employee disciplinary cases where a demotion, suspension or dismissal is proposed for materially and substantially disrupting the functioning of the UNC General AdministrationSystem Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, SHRA employees are entitled to the procedural protections provided by the University SHRA Employee Grievance Policy and any state or institutional disciplinary policies.

#### VIII. Designation and Duties of Responsible Officer and/or Office or Department

A. Designation. Each constituent institution must identify the officer(s), office, or department with responsibilities for ensuring compliance with this policy and Article 36 of Chapter 116 of the North Carolina General Statutes ("Responsible Officer" or "Responsible Officers"), and for answering any related questions or concerns from students, faculty members, staff employees, or others. The president or a chancellor of a constituent institution may choose to designate more than one Responsible Officer or to designate a Responsible Officer with Deputy Responsible Officers in other offices or departments as may best assist the constituent institution.

B. Training. Any officer(s) with these responsibilities will receive training on ensuring compliance. Such training will be developed and provided by the UNC School of Government.

C. Duties. Any officer(s) with these responsibilities shall be the primary point of contact for any student, faculty member, staff employee, or other individual's questions or concerns about compliance with the law or policy or to assist with interpretation of the law or policy. The Responsible Officer(s) shall also coordinate any additional campus-based training or educational opportunities for students, faculty members, staff employees, or others on issues related to free speech and free expression.

In addition, the Responsible Officer(s) and/or appropriate office or department also may be designated by the chancellor to be the primary point of contact for any institutional information requested by the UNC Board of Governors Committee on Free Expression (Committee on University Governance) to meet its annual reporting requirements, including information related to:

1. Any barriers to or disruptions of free expression within the constituent institution;
2. The administrative handling and discipline relating to these disruptions or barriers, consistent with the federal and state confidentiality protections for personnel information and student education records;<sup>14</sup>
3. Any substantial difficulties, controversies, or successes in meeting the requirements of this policy, as described in section III, above; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

Each chancellor or chancellor's designee shall notify the senior vice president and general counsel of the Responsible Officer(s) and/or appropriate office or department and provide prompt notification of any changes in this designation.

#### IX. Other Matters

A. Effective Date. The requirements of this policy shall be effective on the date of adoption by the Board of Governors.

B. Relation to State Laws. The foregoing policies as adopted by the Board of Governors are meant to supplement, and do not purport to supplant or modify, those statutory enactments which may govern the activities of public officials.

C. Regulations and Guidelines. These policies shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

<sup>1</sup> Because of the additional protections afforded to K-12 institutions under the First Amendment, the policy does not apply to the North Carolina School for Science and Math or to the University of North Carolina School of the Arts for its high school students or to any lab schools operated by a constituent institution. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

<sup>2</sup> See, e.g., Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

<sup>3</sup> See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

<sup>4</sup> Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

<sup>5</sup> Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

<sup>6</sup> *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

<sup>7</sup> See Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

<sup>8</sup> Article 36 of Chapter 116 of the North Carolina General Statutes.

<sup>9</sup> The additional duties of the identified responsible officer, office, or department are set forth in section VIII of this policy.

<sup>10</sup> Any complaint about an outside disruption or interference should be communicated to the relevant UNC ~~General Administration~~System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding or sponsoring officer of the meeting or event, as appropriate. This expectation does not limit or supersede ~~the UNC General Administration's~~the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review for a person under their jurisdiction.

<sup>11</sup> Any complaint about an outside disruption or interference should be communicated to the relevant UNC ~~General Administration~~System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding officer of the meeting, as appropriate. This expectation does not limit or supersede ~~the UNC General Administration's~~the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review.

<sup>12</sup> See also Sections 700.4.1 and 700.4.1.1[R] of the UNC Policy Manual.

<sup>13</sup> Discontinuation of an at-will position is not considered disciplinary action under this policy, but may separately be covered by a constituent institution's grievance policy.

<sup>14</sup> See 20 U.S.C. § 1232g, 34 C.F.R. pt. 99, and Article 7 of Chapter 126 of the North Carolina General Statutes.