

# ARTICLE I: DEFINITIONS

1. **Advisor.** Subject to the provisions under the effectuating regulations of Title IX of the Education Amendments of 1972 34 CFR§106, any person, including an attorney, who is not a party, witness, or otherwise involved in a student's case who may, at the student's request, assist them in all stages of the conduct process and may accompany the party to meetings, interviews, and hearings. The role of advisor is non-participatory in nature and limited to support and consultation; advisors do not represent students or serve as legal counsel.
2. **Aggravating Factor.** Circumstances or facts that increase the level of severity and may increase the sanction. Examples may include, abuse of trust or duty, premeditation, use of force or a weapon, recidivism, harm to the victim, or lack of remorse.
3. **Appellate Body.** An Appellate Officer or Panel, authorized by the Director, to consider the merits of an appellant's petition of a disciplinary outcome, based exclusively on one or more of the established grounds outlined in this Code.
4. **Bystander.** An individual who has a first-hand account of the alleged behavior and who tried to intervene to stop the alleged behavior.
5. **Complainant.** Any student or student organization who experienced or was subject to alleged misconduct as described in this Code. When there is no student, Complainant generally means the University.
6. **Conduct Conference.** A forum for where a Respondent and a Conduct Officer meet to resolve cases of alleged non-academic prohibited conduct and where sanctions are not likely to rise above Disciplinary or University Housing Probation.
7. **Conduct Officer.** A university official, subject to the provisions in this Code, who is vested with the authority to, among other duties, investigate alleged prohibited conduct, determine the appropriate resolution, and impose sanctions up to Disciplinary or University Housing Probation or affect other remedies as appropriate.
8. **Director of Community Standards.** Designated by the Senior Vice Provost of Student Life to be responsible for the overall coordination and administration of the University-wide student conduct system, including the development of policies, procedures, education, and training programs. The Director of Community Standards may serve as a Hearing Chairperson, an Administrative Hearing Officer, or Appellate Officer when needed. As used in this document, "Director of Community Standards" or "Director" includes the Director's designee.
9. **Expressed Consent.** Mutual agreement, based on a shared desire for specific sexual activities that is expressed verbally or non-verbally. Examples of expressed consent include, but are not limited to (i.) an ongoing verbal interaction, taken one step at a time, to engage in escalating sexual intimacy; (ii.) mutual awareness of possible unwanted consequences of sexual activities such as pregnancy and sexually transmitted diseases and taking precautions to avoid those consequences; and (iii.) an ongoing recognition that consent to some sexual activities does not imply consent to other, different or more intimate sexual activities.
10. **Evidence.** Information, including testimony, that is relevant, supports the imposition of charges and used during a disciplinary proceeding to determine whether or not the respondent has violated the Code of Conduct. Generally, **character witnesses** who attest to an individual's moral conduct and reputation (ontology) and **expert witnesses** (e.g., medical, forensics, technological, etc.) who have knowledge or experience of a particular field or discipline and express their independent opinion, are not permitted in hearings unless it's been determined to be highly relevant to the facts.
11. **Faculty Member.** Any person employed by the University to conduct classroom activities. For purposes of this Code only, graduate students conducting laboratory or classroom activities in credit-bearing courses for undergraduates without direct compensation, teaching assistants, and instructional assistants are faculty members. For purposes of this Code, persons with tenure track, research, clinical, and lecturer appointments are faculty members.
12. **Hearing Body.** An Administrative Hearing Officer or Panel, subject to the provisions in this Code, who is vested with the authority to, among other duties, review alleged prohibited conduct, make findings of responsibility, and impose sanctions up to University Dismissal or affect other remedies as appropriate.
13. **Hearing Chairperson.** A university official responsible for ensuring a fair and expedient hearing and serves as gatekeeper by making final decisions on all procedural issues, evidence, and witnesses prior to and during the hearing. The Hearing Chairperson will provide guidance and advise the Panel as needed and may participate in deliberations but is a non-voting member.
14. **Incapacitation.** Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized assessment.
15. **Member of the University Community.** Any person who is a student, faculty member, university official or any other person employed by the University.
16. **Mitigating Factor.** Circumstances and facts that may be taken into consideration to support leniency or lessen the sanction. Examples of mitigating factors may include no prior misconduct, accident, provocation, self-defense, or genuine contrition or remorse.
17. **Observer.** Observers are other faculty, staff or students, approved by the Director, who may be present during a hearing for educational and training purposes. These observers are usually new panel members who are attending as a part of their training and continuing education process. Observers do not participate in any way and are allowed admission to the hearing with the consent of the students engaged in the process.
18. **Policy.** A written regulation of the University that binds a student and the University. University policies are found in the University System of New Hampshire Online Policy Manual, the Student Rights, Rules, and Responsibilities, the University Room and Board Agreement, the Graduate/Undergraduate Catalogs, or other written statements or sets of statements by university trustees, faculty and officials that establish rights, requirements, and responsibilities. For more information review the full policy: <http://www.usnh.edu/policy/unh/iii-administrative-policies/e-institutional-policy-development-review-and-approval>.

19. **Preponderance of Evidence.** One type of evidentiary standard used in a burden of proof analysis. Preponderance is the University's evidentiary standard when, considered as a whole, it is more likely than not that the alleged behavior did violate the Code of Conduct. The burden of proof is upon the University to sufficiently establish that the student is responsible for engaging in prohibited conduct that violated the Code of Conduct.
20. **Respondent.** Any student or student organization accused of violating this Code and engaged in the conduct process.
21. **Student.** Any person reported by the Registrar as taking one or more undergraduate, graduate, summer or continuing studies courses at UNH or having accepted an offer of admission to the University, including:
  - a. Persons enrolled in full-time and part-time degree, certificate or credit-bearing programs;
  - b. Non-university personnel living in university-owned undergraduate or graduate residences;
  - c. Persons enrolled in a UNH degree program or taking courses for UNH credit or for transfer credit; Students in study away and study abroad programs;
  - d. Persons who are not officially enrolled in credit-bearing studies for a particular term but who may have a continuing student relationship with the University including persons who are interim suspended, withdrawn, separated, or otherwise have a reasonable expectation of resuming enrollment in courses are considered students;
  - e. Students who have completed the course work to receive a degree but who remain on campus to conduct research.
22. **Student Organization.** A group of students who have complied with the formal requirements for university recognition as an organization, as described in the Student Organization Policies section of this handbook.
23. **Threat.** To express one's intention to physically harm or kill another person, or to take hostile action against another person or their property in a manner that would make a reasonable person fear for their safety.
24. **University.** The University of New Hampshire (UNH), including its campuses in Durham, Manchester, and Concord.
25. **University Hearing.** A mechanism for resolving cases of academic and non-academic misconduct when outcomes could reasonably result in University Housing Removal (for a specified period of time or indefinitely), University Suspension, or University Dismissal.
26. **University Official.** Any person employed by UNH, performing assigned administrative or professional responsibilities.
27. **University Premises.** All land, buildings, facilities, and other property in the possession of or owned, used, or controlled by UNH, including adjacent streets and sidewalks.
28. **Witness.** A person who has relevant, direct, first-hand knowledge of an incident related to an alleged violation of this Code.