

Change #9, Section X, p 67-81 of the 2010-2011 Handbook

Rationale: Updates to the student code

SECTION X

Code of Student Rights, Responsibilities, and Conduct

1. Philosophy of University Policies for Student Life

Christopher Newport University is maintained and governed by the following five values: (1) We will always put students first; (2) We will always offer outstanding teaching; (3) We will remain committed to liberal learning; (4) We will provide access and opportunity; (5) We will be actively engaged in shaping the economic, civic, and cultural life of this community. Additionally, we hold the ideal of Honor as an important element of the Christopher Newport University experience. Accordingly, the University has implemented policies that reinforce these values and ideals. As an educational institution, the University is concerned with the formal, in-class education of its students as well as their growth into mature men and women who conduct themselves as responsible, honorable citizens.

The uniqueness of the academic community requires particular sensitivity to the individual rights of students and the rights of the University community. Rules and regulations are imperative as a basis for the orderly conduct of University activities and for maintaining an environment conducive to study, recreation and personal growth. Regulations are intended to create sound living and learning conditions for all members of the campus community, and to promote an atmosphere that encourages personal integrity.

Student Life policies are based upon the assumption that students and groups have the capacity to assume responsibility for their own behavior and that the University has the authority to establish an internal structure for enforcement of its policies and procedures which students have agreed to accept by enrolling at the University. Conversely, students have the right to expect the University to fulfill its educational responsibilities as effectively as its capacity and resources permit.

Since rights carry with them certain responsibilities, the following rights and responsibilities - institutional as well as student - are set forth.

2. Basic Rights

The following listing of basic rights is not intended to deny or limit the rights of students in any way. Rather, it is intended to focus special attention on these rights because of their importance in the educational process. Christopher Newport University students may freely and openly exercise the following freedoms as long as their actions do not interfere with the regular operation of the University:

- a. Campus Expression - Free inquiry, expression, and assembly are guaranteed to all students subject to the limitations of this document and other University regulations and policies which are consistent with the provisions of the Constitutions and laws of **the Commonwealth of Virginia** and the United States **of America**. Public statements and demonstrations by individual members of the University community or organizations shall be clearly identified as representative only of those individuals or organizations and not of the University. Sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed either by the sponsoring group or the institution.
- b. Pursuit of Goals - Students are free to pursue their educational goals; appropriate opportunities for learning shall be provided by the University.
- c. Equal Protection - No student shall be subject to any regulations that discriminate on the basis of race, sex, color, age, religion, national origin, disability, sexual orientation or political affiliation. Any individual living in a community must respect the rights of others in that community. Students are responsible for their actions. They are obligated to respect authority, to be truthful, to maintain standards of academic performance, to respect the rights of others and to protect private and public property. Students must uphold federal, state and local laws, as well as University regulations.

3. Equal Opportunity

CNU does not discriminate in admission, employment or any other activity on the basis of race, gender, color, age, religion, veteran status, national origin, disability, sexual orientation or political affiliation.

All student requests for disability accommodations and assistance should be directed to the ~~Coordinator of Disability Services~~ **Dean of Students** located in the ~~Academic Advising Center~~ **Office of Student Affairs** on the third floor of the David Student Union. Students who feel they have been

discriminated against because of a disability should contact the ~~Coordinator of Disability Services~~
Dean of Students.

Any student who believes that he/she has been unlawfully discriminated against or harassed may file a complaint with the Director of Equal Opportunity **& Faculty Recruitment.**

4. Student Records

Christopher Newport University complies with the Family Educational Rights and Privacy Act. Questions concerning this policy may be referred to the Dean of Students or the University Registrar.

5. Student Code of Conduct

Generally, University jurisdiction and discipline shall be limited to conduct that occurs on University premises, at any official University function or activity regardless of location, or such action that adversely affects the University community's pursuit of its education or other legitimate objectives. Engaging in activities that are inconsistent with values expressed in documents and/or the articulated expectation of student conduct, regardless of the location of the activity, may be addressed as potential violations of the Student Code of Conduct or Honor Code.

The following misconduct is subject to disciplinary action, including possible suspension or dismissal from the University. For specific information regarding Student Code of Conduct policies, please refer to the current *Student Handbook*.

a. Abusive, Disorderly or Obscene Conduct

1) Abusive Conduct

Any ~~use of words or acts~~ **actions** against one's self or others that causes physical injury or that demeans, intimidates, harasses, threatens or otherwise interferes with another person's rightful actions. ~~or comfort.~~ This includes but is not limited to, verbal abuse, physical battery, and sexual misconduct.

Abusive conduct as intimidation includes engaging in a course of conduct or committing acts that alarm another person and serve no legitimate purpose. This includes but is not limited to unlawful coercion, extortion or duress that places the recipient in fear.

Abusive conduct that is harassing is defined as any words, gestures or actions directed at an individual or group that may cause a reasonable person to experience fear or intimidation. Harassment of all kinds that is directed at an individual is reprehensible and will not be tolerated by the University.

Sexual misconduct is defined as sexual contact without consent and includes intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breasts, thighs, anus or buttocks; rape (sexual intercourse without consent, whether by an acquaintance or a stranger); attempted rape; sodomy (oral or anal intercourse) without consent; attempted forcible sodomy; or sexual penetration with an object without consent. To constitute a lack of consent, the act(s) must be committed either by force, intimidation, or through the use of the victim's mental incapacity or physical helplessness (to include the influence of alcohol or other incapacitating substances).

2) Disorderly Conduct/Conduct Infringing on the Rights of Others

Behavior that disrupts or interferes with the orderly functioning of the University or disturbs the peace and/or comfort of persons or interferes with the performance of the duties by University personnel.

3) Obscene Conduct

Any conduct or expression that is lewd or indecent **that is not constitutionally protected speech.**

b. Actions Related to Criminal Offenses

Any student arrested, charged with and/or convicted of a serious criminal offense may be subject to University disciplinary actions. Students arrested or charged with felonies and/or serious misdemeanors may be subject to an immediate interim suspension pending a University investigation into the allegations.

c. Alcoholic Beverage Policy

Use, possession, consumption or distribution of alcoholic beverages by students, except as expressly permitted by Virginia law and University regulations will not be tolerated.

Public intoxication that results in disorderly behavior that negatively impacts the University community and community at large will not be tolerated.

Students found in the presence of alcohol are also subject to disciplinary actions.

Christopher Newport University supports and encourages an alcohol-free educational experience. The University fully complies with the alcohol regulations of the Commonwealth of Virginia.

d. Damage or Destruction

Attempted or actual damage to or destruction of University property of a member of the University community or other personal or public property while on University premises or at University sponsored functions. Attempts to damage, or actions that could damage, property will also not be tolerated.

e. Drugs

Use, possession or distribution of narcotic or other controlled substances by Virginia law will not be tolerated.

Being in the presence of or under the influence of illicitly obtained or illegal controlled substances will not be tolerated. Similarly, inappropriate or abusive use of prescription, over-the-counter medication, or other items in order to produce a drug-like effect is unacceptable.

Additionally, possession of drug paraphernalia including but not limited to bongs, bowls, scales, hookah pipes, scales and roach clips is prohibited. ~~Due to concerns regarding the psychoactive effects of Salvia Divinorum, use, possession, or distribution of "Salvia" is prohibited.~~

Christopher Newport University supports and encourages a drug-free educational experience. CNU fully complies with the narcotic and controlled substance regulations of the Commonwealth of Virginia.

f. Failure to Comply with a University Official

Failure to comply with a request of an authorized University official, including failure of a student to present his/her University identification card when requested by an authorized University official.

g. Failure to Observe Rules and Regulations

Failure to observe rules and regulations issued by the University, including all publications and notices pertaining to student life and student services.

h. Fireworks/Explosives/Hazardous Chemicals/Weapons

Unauthorized possession or use of fireworks, explosives, or weapons is prohibited. Hazardous chemicals, which could pose a health risk, are also prohibited from the campus. This includes chemicals which, when combined with other substances, could be hazardous or present a danger to others.

Unauthorized possession, storage, or control of firearms and weapons on University property is prohibited. This includes storage in vehicles on campus as well as in the residence hall. Firearms include as any gun, rifle, pistol, or handgun designed to fire bullets, BB's, pellets, or shot regardless of the propellant used. Additionally, possession of ammunition that could be used with a prohibited item is forbidden. Other weapons include any instrument of combat, or any object not designed as an instrument of combat but carried for the purpose of inflicting or threatening bodily injury. Examples include, but are not limited to, knives with fixed blades or pocket knives with blades longer than four inches, razors, metal knuckles, blackjacks, hatchets, bows and arrows, nunchakas, foils, or explosives and incendiary devices.

i. Hazing

Hazing, which includes any act that causes humiliation, physical discomfort, bodily injury or ridicule, is a criminal offense in the Commonwealth of Virginia. For a more detailed explanation of this policy and a more comprehensive definition of hazing, please see Section IV-IX of the CNU Student Handbook.

j. Involvement in a University Violation

Presence during any violation defined in the Code of Student Rights, Responsibilities and Conduct or the Honor System that condones, supports or encourages the violation. Students who anticipate or observe a violation of University policy are expected to remove themselves from the situation and are expected to report the violation to the proper authorities. Students are obligated to report Honor Code violations.

k. Misuse of Fire-Fighting Equipment/Arson/Disregard of Fire Alarm/Tampering

Misuse of fire-fighting equipment, including tampering, removing or discharging a fire extinguisher or any other fire emergency equipment except when the need is real.

Unauthorized burning of any material in any University building or on University property.

The disregard of a fire alarm system or the refusal to vacate a building or section of a building when a fire alarm is sounding.

Tampering with detection systems, including deliberately initiating a false alarm or creating conditions that result in a false alarm, or tampering which would cause a malfunction or non-function.

l. Misuse of Identification Cards

Improper use of any identification card, including knowingly altering or mutilating a University identification card is prohibited. Using ~~or possessing~~ the identification card of another or allowing one's own card to be used by another is a violation of university policy and may also be considered an Honor Code violation.

m. Stalking

No person may intentionally stalk another person.

"Stalk" means to engage in an intentional course of behavior directed at a specific person which frightens, intimidates, or harasses that person, and that serves no legitimate purpose. The course

of behavior may be directed toward that person or a member of that person's immediate family and may cause a reasonable person to experience fear, intimidation, or harassment.

n. Tampering with University Property

Tampering with any elevator, wiring, plumbing, or other University equipment/property without prior authority from the appropriate University official.

o. Unauthorized Entry or Access

Unauthorized possession or use of keys to any University door or facility, or unauthorized entry to or use of facilities and/or unauthorized use of an emergency exit door is prohibited.

6. The University Judicial System

a. Preamble

The purpose of the University Judicial System is to involve the University community in the administration of the discipline system, to provide any student the right to due process, to help provide corrective and educative action in response to behavior deemed unacceptable and to help foster a fair, just, **safe**, disciplined and honorable University community.

b. Jurisdiction

The President of Christopher Newport University is ultimately responsible for the discipline of all students at the University. Administrative authority and responsibility for judicial policies and procedures is delegated to the Dean of Students who will determine if an alleged violation is a violation of the Honor System or the Student Code of Conduct. The decision of the Dean of Students is final. Within the Division of Student ~~Services~~ **Affairs**, the Director of the Center for Honor Enrichment & Community Standards (CHECS) assumes the direct supervisory jurisdiction of disciplinary matters involving violation of University policy. The Director of CHECS serves as the Chief Judicial Officer for the University.

Members of the University community will be considered for disciplinary action whenever violations are committed on University property. For violations not occurring on University property, action will be considered when University officials determine that University interests are involved. Students and student organizations may be held accountable for conduct off-campus. Members of the University community are expected to adhere to all community standards regardless of their location or where they choose to reside. Disciplinary action may be taken by the University for any act constituting a violation of the law when the act is contrary to the University community's pursuit of its educational and other legitimate objectives. Whenever conduct violates both the law and University policies, the University may take disciplinary action irrespective of and separate from action taken by civil authorities. The University will proceed with disciplinary action according to its regular timeline, unless directed otherwise by University counsel. The policies and procedures of the University Judicial System are designed to provide a fair and equitable resolution concerning involvement in alleged misconduct.

c. Procedure

Any member of the University community may bring an alleged violation of University policy to the attention of the Director of CHECS or a designated judicial officer for review. Formal action requires evidence and/or testimony by the person referring the case.

Allegations must be filed with Director of CHECS or a designated judicial officer in writing, within ten working days of the occurrence or the discovery of the alleged infraction(s) excluding weekends, official University holidays, and Winter and Spring Breaks. The complaint should contain a clear, concise and complete written statement of the allegations of infractions(s).

Individuals filing cases that cite physical abuse, conduct that threatens or endangers members of the community, harassment, intimidation or hazing may file a written appeal for an extension of the ten-day filing period. Such appeals should be submitted to the Director of CHECS. Appeals may be made up to one major semester (fall or spring) after the date of discovery of the alleged incident.

The University Judicial System is supported by a network of University community representatives who comprise the University Committee for Student Discipline and are appointed as members of Hearing Panels, Honor Councils, ~~and Hearing Panel/Honors Councils~~ Honor Council/Hearing Panels and Sexual Misconduct Hearing Panels, as necessary. These individuals have been trained in judicial procedures and are knowledgeable about university policies and judicial system precedent.

d. Academic Violations of the Honor Code

For specific information regarding academic violations of the Honor Code, please refer to the Honor System section of this handbook.

e. Student Code of Conduct/Non-Academic Honor Code Violations

- 1) Should an alleged violation of University policy occur, an incident report will be completed and submitted to CHECS. These violations may include, but are not limited to, violations of the Student Code of Conduct, violations of residence ~~hall~~ **life** policy, violations of sections of the *Student Handbook* (for example, the Computer Usage Policy or the Hazing Policy) and violations of the Honor Code. Students listed on the incident report and alleged to have violated policy will be notified **in writing** of the charges stemming from the allegation(s). This form is referred to as a Charge Notice.

Students notified of an allegation of wrongdoing must contact CHECS to schedule an Initial Conference to discuss the allegation(s). The Initial Conference is an informal preliminary step conducted by a designated judicial officer which will provide the student with the opportunity to respond to the allegation(s). During this Initial Conference students are invited to discuss and review the alleged misconduct, and are encouraged to ask questions concerning the University judicial process. At the Initial Conference, which is a conversation between the designated judicial officer(s) and the responding student, the student is expected to present their perspective regarding the incident in question.

The student may accept responsibility for the allegation(s) outlined in the Charge Notice. If this occurs, the judicial officer may, after talking with all necessary parties, assign appropriate sanctions based on the information received and judicial history, if any.

The student may also deny the allegation(s) outlined in the Charge Notice and provide any information he/she deems appropriate. Sanction decisions, if appropriate, will not be rendered until the judicial officer has completed an investigation of the incident, to include talking with all necessary parties. At the conclusion of the investigation the judicial officer will determine if a violation has occurred and will make sanction decisions, if necessary.

Whether a student admits responsibility or is believed to be responsible for the allegation(s) outlined in the Charge Notice, should the appropriate sanction, based on the severity of the violation and/or the student's judicial history, be suspension or dismissal from the University, an Honor Council or Hearing Panel may be convened to hear the case.

If a student fails to respond to the Charge Notice and/or appear at the Initial Conference, all charges will be considered true and the appropriate sanctions will apply.

Should a student be found responsible for a violation, he/she may appeal the decision, in writing, to the Director of CHECS within five business days of the initial decision. This appeal must demonstrate a violation of due process occurred or new information exists which should be considered.

f. University Committee on Student Discipline (UCSD)

The University Committee on Student Discipline (UCSD) will be comprised of members of the University community to include faculty and students.

Faculty: Faculty from the College of Arts and Humanities, College of Natural and Behavioral Sciences and the College of Social Sciences will be appointed by the respective Academic Dean in consultation with Dean of Students and the Faculty Senate.

Students: Representatives from ~~each academic class, including graduate students,~~ **the student body** will be **appointed by the Dean of Students elected by their peers** ~~in consultation with the Academic Deans.~~ Additionally, students from computer science and computer engineering may be appointed to help address issues related to computer violations.

The UCSD consists of three subcommittees which are Honor Councils, Hearing Panels, and the Honor Council/Hearing Panels.

Honor Councils will be convened as necessary to hear allegations of Honor System violations that are independent of Student Code of Conduct violations. When convened, this body will be called an Honor Council. **Honor Councils hearing non-academic allegations violations of the Honor System will be comprised of students from the UCSD. Honor Councils hearing academic violations of the Honor System will be comprised of faculty and students from the UCSD.**

Hearing Panels will be convened as necessary to hear allegations of Student Code of Conduct violations. When convened, this body **of students** will be called a Hearing Panel. When convened to hear allegations of sexual misconduct, this body will be called a Sexual Misconduct Hearing Panel (SMHP). **SMHP will be comprised of students and faculty from the UCSD.**

Honor Council/Hearing Panels will be convened when an alleged violation of community standards occurs in the Honor System and the Student Code of Conduct during the same incident. **Honor Council/Hearing Panels involving non-academic honor code violations will be comprised of students from the UCSD.**

Any UCSD subcommittee convened because of allegations of computer misuse may include at least one ~~faculty member from the College of Natural and Behavioral Sciences~~ **computer science or computer engineering student. A faculty member from the College of Natural & Behavioral Sciences and/or a staff member** having a significant technical background in computing **may be called in for consultation.** ~~and one computer science or computer engineering student.~~

Composition of the UCSD subcommittees shall be no less than five drawn from the UCSD, ~~to include a combination of faculty and students,~~ with the exception of the Sexual Misconduct Hearing Panel. If the situation warrants, a subcommittee may contain less than five members when the student respondent waives his/her right to a five-member panel. The Chair, who is appointed by the Chief Judicial Officer, has the authority to conduct the hearing and will subsequently notify the Chief Judicial Officer of any decisions. All members have voting privileges except as noted for **Sexual Misconduct Hearing Panels. An advisor to the UCSD may also be present in the room during the Hearing Panel or Honor Council as a non-voting member. The role of the UCSD advisor is to ensure fairness and due process for all parties. The UCSD advisor may answer any questions from the respondent, the judicial officer, or the board about the judicial process. The UCSD advisor will keep the proceedings and deliberations focused on issues relevant to the judicial process. This UCSD advisor is separate from the advisor for the accused student.**

The final decision **of findings of fact** by a Hearing Panel will be determined by a simple majority vote. The final decision **of findings of fact** by an Honor Council must be unanimous. A Panel/Council decision will be determined by a majority for the Student Code of Conduct violation and unanimity for the Honor System violation.

UCSD subcommittees will usually only convene during the Fall and Spring semester. During summer or inter-session written appeals resulting from an Initial Conference will typically be reviewed and decided upon by the Director of the CHECS. During summer or inter-session, a Special Panel may be convened to hear serious allegations that should be addressed prior to the start of the upcoming semester. The Special Panel will consist of one faculty member from the UCSD, one student from the UCSD, and one administrator trained in judicial procedures. When

an administrator is unavailable, a member of the Center for Honor Enrichment & Community Standards not directly involved in the investigation will assume this role.

g. **UCSD Subcommittee Procedure**

UCSD Subcommittees will be convened at the request of a designated judicial officer. They may also be requested by the ~~accused-respondent~~ as ~~an appeal to a decision made during an Initial Conference if new information exists or a violation of due process has occurred~~ **a review of findings of fact or sanction decision, when the sanctioning decision is suspension or dismissal.** ~~Appeal requests are submitted, in writing, to a judicial officer, unless the judicial officer held the Initial Conference, in which case the appeal is made to the Director of CHECS.~~ **Review request are submitted in writing to a designated judicial officer.**

- 1) A date, time and place of the hearing shall be determined with notification given to all parties. Every effort shall be made to schedule this hearing within two weeks of ~~the time a complaint is filed~~ **the date of notification**, although it shall not be scheduled less than five (5) days from the ~~filing date of the complaint~~ **date of notification**, except by mutual agreement of the ~~complainant and respondent~~ **judicial officer and respondent**.
- 2) The judicial officer must notify the respondent in writing of the complaint and the allegations that have been filed along with the information outlined in number one above.
- 3) All hearings will be closed to the public unless both parties agree in writing not less than 24 hours in advance that a hearing will be open. The UCSD subcommittee reserves the right to limit the number of observers at an open hearing.
- 4) In a hearing, the burden of proof shall be based on a preponderance of the evidence.
- 5) Witnesses may be called by the parties and/or by members of the UCSD. ~~Witnesses may be either witness to actual events or character references~~ **Witnesses must be an event material witness. Clarification of an event witness can be directed to the Director of the Center for Honor Enrichment & Community Standards.** ~~Character references may only be reviewed or heard, if appropriate, during the sanctioning phase of the hearing.~~ The UCSD subcommittee may, by majority vote, limit the number of witnesses for reasons of redundancy or irrelevancy.

- 6) **Character references, if applicable, may only be reviewed or heard during the sanctioning phase of the hearing. The UCSD subcommittee may, by majority vote, limit the number of witnesses for reasons of redundancy or irrelevancy.**
- 7) Both parties and UCSD members will have the right to question witnesses as necessary.
- 8) All hearings shall be recorded and the notice, exhibits, taped or stenographic records, and findings of fact shall be filed with the Director of CHECS. **Unauthorized recording in any medium is not permitted without prior written permission.**
- 9) In cases involving more than one student, the UCSD subcommittee may hear the case as one, but shall make separate findings of fact for each student.
- 10) In closed session, the UCSD subcommittee, after deliberation, will decide, by the preponderance of the evidence standard, whether the respondent is or is not in violation of the University policy defined.
- 11) If a respondent is found to have violated University policy, the UCSD subcommittee will decide on appropriate sanctions. This determination, in the form of a recommendation, will be forwarded to Director of the Center for Honor Enrichment & Community Standards, along with their findings of fact.
- 12) Final determination of the sanctions rests with the Director of CHECS. Respondents will be notified in writing of the decision within ten (10) business days of the proceedings.
- 13) Individuals wishing to appeal the decision may do so only if there has been a violation of due process or if there is new evidence, **which was not available at the time the decision was rendered**, to be presented.
- 14) A request for an appeal from a UCSD subcommittee decision must be made in writing to the Dean of Students within five (5) business days of notification.

h. Sexual Misconduct Hearing Panel Procedure

Upon receipt of an incident report alleging a form of sexual misconduct, the following process will be utilized.

- 1) A **University judicial officer** from CHECS will investigate the allegations and collect pertinent information. The investigation may include interviews with different parties as well as reviewing physical evidence, if any.
- 2) Upon completion of the investigation the judicial officer will present his/her findings to a Sexual Misconduct Review Panel (SMRP) for consideration. The SMRP will consist of three members, two of whom are UCSD faculty and one of whom is a UCSD student. One of the faculty members will coordinate the SMRP meeting. Each member of the SMRP must have participated in training specific to sexual misconduct issues.
- 3) The SMRP will make decisions by a majority vote.
 - a) Upon hearing the presentation of the evidence collected by the judicial officer, the SMRP will determine if there is substantial evidence warranting a Sexual Misconduct Hearing Panel (SMHP). Based on this substantial evidence standard the SMRP will make a recommendation, in writing, to the judicial officer to convene an SMHP or pursue other judicial actions.
 - b) The SMRP must consider each charge presented to the accused student and decide which charges, if any, warrant further review. Included in their recommendation will be the specific charges to be reviewed by the SMHP or other hearing panels. If the SMRP does not believe a violation of the sexual misconduct policy has occurred but other violations have occurred, they may recommend to the judicial officer that a Hearing Panel, Honor Council or ~~Hearing Panel/Honor Council~~ **Honor Council/Hearing Panel** be convened or that the judicial officer resolve the issues.
 - c) Should the SMRP recommend a sexual misconduct hearing is warranted, they will include in their written recommendation a list of witnesses they believe the ~~SMRP~~ **SMHP** should hear. The respondent and/or the alleged victim may appeal to the Director of CHECS for the admittance of additional witnesses. This appeal must be in writing and should be received in CHECS within 72 hours of the notification of the witness list. The appeal must articulate why a particular witness is pertinent to the case being heard.
 - d) Should the SMRP recommend a hearing is not warranted, they will communicate this decision, in writing, to the judicial officer. The judicial officer will notify the respondent and the alleged victim of the SMRP's decision within three **(3)** business days of receipt of the decision. The alleged victim may appeal this SMRP decision to the Director of CHECS within five **(5)** business days. The appeal should include, at a minimum, any new information to be considered. Additionally, if the alleged victim believes a procedural error occurred, this should also be included in the appeal.
 - e) The Director of CHECS may elect to review the appeal or remand the case to the SMRP for further study. The Director of CHECS must make a decision regarding the appeal within five **(5)** business days of receipt of the appeal letter.
- 4) The judicial officer must act on the recommendation of the SMRP within **three (3)** business days of receipt of the recommendation. Action must include one of the following:
 - a) Initiate the convening of the SMHP or
 - b) Pursue other judicial action, including the convening of a UCSD Hearing Panel, ~~or~~ Honor Council **or Honor Council/Hearing Panel**, if necessary or
 - c) Determine that insufficient evidence exists to pursue further judicial action.
- 5) The members serving on the SMRP are ineligible to serve on the SMHP for the case they have reviewed.

- 6) Members serving on an SMHP must have participated in training specific to sexual misconduct issues.
- 7) SMHPs will consist of four members, one of whom is a UCSD faculty member and two of whom are UCSD students. The SMHP will be managed by the fourth member, either a specially trained university administrator or a non-investigating judicial officer from CHECS.
- 8) The role of the investigating judicial officer, who is present throughout the hearing, is to present the evidence he/she has shared with the SMRP. He/she may also present additional evidence discovered after the SMRP convened and prior to the SMHP convening. He/she may also respond to questions from any of the participants in the process with the exception of the advisor, who is ineligible to pose questions.
- 9) During an SMHP, the respondent and the alleged victim may select an assistant from a group of students who have been trained for this role. Assistants serve as guides through the judicial process and may help their student prepare for the hearing, present information, develop and/or ask questions and help articulate their responses. Assistants do not assume prosecutorial or defense roles and as such do not argue for or against the student they represent.
- 10) Students electing not to utilize an assistant may choose another individual to serve as an advisor during the hearing. The role of the advisor is to counsel their advisee. As a result, they may not present information, ask questions, or speak on behalf of their advisee.
- 11) The student filing the accusation may choose to be present throughout the entire hearing or to be present for a portion of the hearing. The student may elect to present information and ask questions. He/she is expected to respond to inquiries from all parties. If the alleged victim prefers to participate from behind a screen, the institution will provide one.
- 12) The format for a sexual misconduct hearing will reflect all other hearings except as outlined within this document. This means opening and closing statements should be given, respondents and witnesses are expected to share their perspective on the events in question, and panel members are expected to ask questions and review the information received.
- 13) Upon hearing all of the evidence, the SMHP will privately deliberate. The managing administrator or non-investigative judicial officer will not participate in deliberations but may serve as a resource to the SMHP. A majority of the remaining three panelists must decide the facts of the case based on the preponderance of the evidence standard.

- 14) The findings of the ~~Hearing Panel~~ SMHP, and any associated recommended sanctions, must be communicated to the Director of CHECS within five (5) business days of the conclusion of the hearing.
- 15) The Director of CHECS will communicate the results of the SMHP to the respondent and the alleged victim within five (5) business days of receipt of the SMHP decisions.
- 16) Should the respondent be found responsible for a violation of University policy, he or she may appeal to the Dean of Students in writing no later than five (5) days from the date of the finding letter from the Director of CHECS. This appeal must be based on due process violations or new information unavailable to the SMHP at the time their decision was rendered.
- 17) Should the alleged victim wish to appeal the decisions of the SMHP, he or she may appeal to the Dean of Students in writing no later than five (5) days from receipt of the finding letter from the Director of CHECS. This appeal must be based on procedural errors or new information unavailable to the SMHP at the time their decision was rendered.
- 18) The Dean of Students may elect to review the case and render alternative decisions, remand the case to the SMHP or decline a review of the case at which point the decisions of the SMHP will stand.

The decision of the Dean of Students is final.

i. Provisions for Due Process

Within the formal UCSD hearing process, a student who is alleged to have violated University policy is entitled to certain procedural guarantees to insure a fair resolution. These procedural guarantees also apply to student organizations engaged in the formal UCSD hearing process.

- 1) The student will be provided with a **written** statement of charges in advance of the hearing so as to allow the student time to prepare a response. In addition, the student, upon **written** request will be given the opportunity for advance inspection of any statements or exhibits the judicial officer intends to submit at the hearing. Students may also request, in writing, the anticipated list of witnesses.
- 2) Students are expected to present an explanation of their situation at the hearing and may ask individuals to present information on their behalf (e.g. witnesses). Should the respondent fail to appear at the scheduled time and place, the hearing will be held in his/her absence.

- 3) To assist in preparation for the UCSD, a student may choose an advisor to be present during the hearing. The role of the advisor is to "advise" and as such is limited to conferring with the advisee only. Advisors shall not participate orally at any point during the hearing.
- 4) Prior to a hearing, the student may challenge the objectivity of any one panel member assigned to their case given reasonable cause to believe that the member may be biased or have a conflict of interest. This challenge must be presented to the Director of CHECS, in writing, at least 48 hours prior to the scheduled hearing date. The student must articulate the reason for potential bias or conflict of interest in order for the Director to consider the challenge. Should the Director uphold the challenge, replacements to the board may be only made when time permits.
- 5) The findings of the hearing will be based solely on information provided during the hearing.
- 6) Receipt of written notification of the findings of the hearing will be within ten (10) business days of the proceedings, **unless otherwise specified.**
- 7) Following the proceedings, the student may appeal the decision only if there is an alleged violation of due process or new evidence to be presented. Appeals must be submitted within five (5) business days of receipt of notification.

j. Judicial Appeals

An *appeal* is defined as a request for review of the original case. This may involve a review of the judicial decision as recorded on paper, a new hearing, or other procedures such as those described below. The burden is on the appealing student to demonstrate why the findings should be altered.

Students who violate the Student Code of Conduct or the Honor System may appeal their case to the Dean of Students. Appeals may be based only on the following grounds: (1) denial of due process; (2) significant and relevant new evidence that was not available at the time of the hearing. Appeal requests will be denied in cases not having sufficient grounds.

A written request for an appeal, stating the specific grounds upon which the appeal is based, must be received by the end of the fifth business day following written notification of the original decision regarding the case. Appeals submitted after the fifth day may not be accepted.

The Dean of Students will review the appeal request and **may choose to review** the entire record of the case. The Dean of Students may also meet with the student, panel members and/or members of the CHECS staff to discuss the appeal. After reviewing the appeal request and, if necessary, the entire record of the case, the Dean of Students may take any of the following actions:

- 1) Alter or sustain the original finding or sanction.
- 2) Refer the case to the Director of CHECS and request that a hearing be convened.

The action of the Dean of Students will be communicated to the student in writing. This decision is the final step in the formal appeal process.

k. University Sanctions

The sanctions listed below may be imposed upon a student or student organization for a violation of University policy. Generally speaking, judicial sanctions **and academic remedies** are cumulative in nature. In situations where multiple incidents occur over a short period of time, judicial hearings are generally scheduled in chronological order according to the date of the incident and all judicial records are considered when determining an appropriate sanction.

- 1) *Academic Dismissal*: Separation of the student from the University with the expectation that the separation is permanent. Academic Dismissal will be noted on the transcript.
- 2) *Academic Suspension*: Separation of the student from the University for a defined period of time, after which the student is eligible to return. Conditions for readmission may be specified. Academic Suspension will be noted on the transcript. **During the period of suspension the student is not allowed on property owned or operated by the University or at University sponsored events without permission.** Academic credits for courses taken at other institutions while on suspension are not transferrable to Christopher Newport University.

- 3) *Deferred Housing Registration and Selection:* Students found in violation of University policy may have their housing registration and selection privilege restricted. Such a sanction means that the student will not be permitted to participate in the housing registration and selection process until all other returning residential students have made their selections.
- 4) *Deferred Sanction:* In some cases, a sanction of suspension or dismissal may be held in abeyance for a specified period. This means that, should the student be found in violation of any University policies during the stated period, he or she may be subject to the deferred sanction without further review in addition to the disciplinary action appropriate to the new violation.
- 5) *Disciplinary Dismissal:* Separation of the student from the University with the expectation that the separation will be permanent. Disciplinary Dismissal will be noted on the transcript.
- 6) *Disciplinary Suspension:* Separation of the student from the University for a defined period of time, after which the student is eligible to return. Conditions for readmission may be specified. Disciplinary Suspension will be noted on the transcript. **During the period of suspension the student is not allowed on property owned or operated by the University or at University sponsored events without permission. Academic credits for courses taken at other institutions while on suspension are not transferrable to Christopher Newport University.**
- 7) *Disciplinary Probation:* This action is given for a stated period of time. A student's further misconduct during this period of time may lead to suspension or dismissal. A student on such probation may remain at the University only upon condition that the student complies with regulations as may be imposed as a condition of the student's probation.
- 8) *Educational Experiences:* The student is required to demonstrate his or her responsibilities within the University community by performance of certain reasonable and relevant activities. Failure to complete the educational experience in the time prescribed may result in suspension **or dismissal** from the University. Failure of student organizations to complete the educational experience in the time prescribed may result in withdrawal of university recognition. Any fees associated with the educational experiences will be the responsibility of the student/student organization.

- 9) *Failure of an Assignment:* A grade of “F” is given for the assignment in question. A letter stating the reason for this grade will be placed in the confidential file in the office of the Dean of Students and remain there for a period of five years or until the student receives a ~~baccalaureate~~ **the degree they are seeking, at which time the student may request the record to be expunged.**
- 10) *Failure of a Course:* A grade of “F” is given for the course and the student is dropped from the course. A letter stating the reason for this grade will be placed in the confidential file in the office of the Dean of Students and remain there for a period of five years or until the student receives a ~~baccalaureate~~ **the degree they are seeking, at which time the student may request the record to be expunged.**
- 11) *Fees/Fines:* Students/Student Organizations in violation of University policy may be assessed fees/fines for their infraction(s). Fees/Fines will be based on the severity of the violation and generally are cumulative in nature. Money collected from fees/fines will generally be used to support educational programs for the community.
- 12) *Future Housing Privilege Revocation:* Students found in violation of University policy may have their privilege to live in University housing revoked for subsequent years. Students who have their future housing privilege revoked will not be permitted to participate in the housing registration and selection process. Further violation of University policy may result in immediate removal from the halls.
- 13) *Letter of Censure:* The student is notified in writing that his or her actions have constituted a violation of University policy and are, therefore, inappropriate. Further violations may result in more serious disciplinary action.
- 14) *Loss of Privilege/Privilege Restrictions:* A student may lose or have restricted a privilege, where appropriate. Such privileges include, but are not limited to parking, facilities access, and event participation.
- 15) *Parental Notification:* A parent/guardian will be notified of the student's the infraction, when appropriate. Notification may usually occur for any violation of the University's Drug Policy and for violations of the University's Alcohol Policy or when there is a health or safety concern.

- 16) *Removal from University Housing:* A student may be removed from University owned and operated housing. The removal may be for a defined period of time or may be permanent. If the former, conditions for potential readmission to University housing may be specified but are not a guarantee to future housing.
- 17) *Restitution:* Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- 18) *Verbal Warning:* A verbal statement notifying the student that he or she is or has violated University policy.

l. Interim Suspension

The University retains the authority to impose an interim (immediate) suspension, pending an Initial Conference and/or a UCSD hearing if such action is necessary to preserve the safety of persons or property. During the period of interim suspension the student may be denied access to the campus and/or be excluded from a class or all classes and denied all other University activities or privileges for which the student might normally be eligible.

The University also retains the authority to impose an ~~interim (immediate) suspension~~ **immediate restriction from campus** pending medical intervention, should a student be deemed a threat to him/herself or if their behavior disrupts the health and welfare of those in the community. A return to the University community may be contingent upon a medical release. **For specific policies related to medical interventions please contact the Dean of Students.**

m. University Judicial Records

Disciplinary sanctions other than suspension or dismissal shall not be made a part of the student's academic record but shall become part of the student's personal record. Cases involving suspension or dismissal shall permanently remain in a student's personal record and a permanent notation may be made on the student's academic record. Cases involving the imposition of all other sanctions may be expunged from the student's personal record three (3) years after ~~final disposition of the case~~ **the file is closed**, upon request of the student. In very limited instances, a student's personal record that does not include a suspension or dismissal may be expunged at the discretion of the Dean of Students ~~or the Director of CHECS~~ upon graduation of the student.

7. Student Life Policies

Students who violate University regulations and/or State and Federal laws on campus or at University sponsored events or when University interests are involved are subject to University disciplinary procedures. Any person who engages in unlawful or disruptive conduct or violates University policy may be asked to leave the campus or the University sponsored activity or event. Failure to comply with such requests constitutes trespassing under Virginia state law and may lead to disciplinary action and/or arrest in addition to University actions for the initial behavior.

a. Student Clubs and Organizations

All policies and procedures governing student clubs and organizations are outlined in the *Student Handbook*.

b. Harassment

Harassment of all kinds that is directed at an individual is reprehensible and will not be tolerated by the University. Such behavior subverts the mission of the University and threatens the careers, educational experience, and well being of all members of its community. When, through fear of reprisal, a student, faculty member, or staff member, tolerates such behaviors, the University's ability to carry out its mission is undermined. For more specific information, please see Section II, 15 of this handbook.

c. Hazing

Hazing is a criminal offense in the Commonwealth of Virginia. Hazing is a serious violation of University policy and is prohibited in all forms. This policy is based upon the proposition that students are entitled to be treated with consideration and respect at all times. It applies to all student organizations and individuals. Concurrently, the NCAA National Interfraternity Conference, the National Panhellenic Conference and the National Pan-Hellenic Council state unequivocally that hazing has no place in the collegiate organization they govern. In determining whether a specific behavior violates the hazing policy, consideration will be given to the behavior's relationship to the University's mission and purpose.

Hazing is defined as any mental or physical requirement, request, or obligation placed upon any person which could cause discomfort, pain, fright, disgrace, injury, or which is personally degrading, or which violates any federal, state, local statute or University policy, the willingness of an individual to participate in such activity notwithstanding. Examples include, but are not limited to, tests of endurance, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug, or other substance, exposure of members or prospective members to potentially dangerous or hazardous circumstances, activities which have a foreseeable potential for resulting in personal

injury, such as drop-offs, or any activity which by its nature is so profound that it would have a potential to cause severe mental anxiety or distress, such as sleep deprivation, forced or encouraged exclusion from social contact, forced or encouraged conduct which could result in extreme embarrassment, panic, degradation, or any other forced or encouraged activity which could adversely affect the mental health or dignity of the student.

The officers, principally the president or chair**person** of each organization, are responsible for informing members and prospective members of this hazing policy each semester. The Office of Student Activities and the Center for Honor Enrichment & Community Standards are excellent resources regarding hazing behavior and prevention. Violations of the hazing policy should be reported to the Director of the Center for Honor Enrichment & Community Standards.

d. Sexual Misconduct

Christopher Newport University is a community of trust and respect whose existence depends on strict adherence to standards of conduct set by and for its members. CNU recognizes its obligation to uphold the laws and standards of the community of which it is a part. Sexual misconduct is a serious violation of these standards and will not be tolerated. Punishable by both civil and criminal legal action, sexual misconduct is a serious violation of University policy. The University Judicial System adjudicates, typically at the request of the complainant, all cases involving sexual misconduct where the accused is a Christopher Newport University student. CNU encourages all alleged victims to prosecute to the full extent of the law.

Sexual misconduct in the Student Code of Conduct is defined as a violation of the abusive conduct policy (refer to the Student Handbook for specific language). Depending on the circumstances of the case, students who are found in violation of the abusive conduct policy may receive sanctions which include suspension for one or more semesters or dismissal from the University.

1) Resources

The following are available to complainants:

- a) University Health and Wellness Services
- b) Counseling Services
- c) Director of the Center for Honor Enrichment & Community Standards
- d) Director of Equal Opportunity and Faculty Recruitment
- e) Dean of Students
- f) University Police**

Students who feel they have been a victim of a sexual assault should first seek appropriate medical attention as soon as possible. Every effort should be made to find the emotional support necessary. Physical and other medical evidence should be collected even if the student has not yet decided what, if any, course of action will be taken against the assailant. Students can go to Riverside Hospital, located on J. Clyde Morris Boulevard, for medical assistance.

2) Judicial Action

Students who feel they have been sexually assaulted have several legal options to explore. Within the University community, survivors are encouraged to complete an incident report. The student filing the complaint should be willing to testify at all judicial proceedings. A complete review of the University judicial process can be found in this section under the heading “The University Judicial System.” Specific information can be found under the heading “Sexual Misconduct Hearing Panel.”

Civil and criminal action may also be taken through the appropriate court system. Initiating criminal or civil action against the accused does not preclude the complainant from pursuing University judicial action.

****Should there be a conflict between the information contained in this section (Section X) and the information in the Student Handbook, the most current document will apply.**