

# FAYETTEVILLE STATE UNIVERSITY

## INVOLUNTARY PROTECTIVE WITHDRAWAL

<b>Authority:</b>	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
<b>Category:</b>	Student Affairs
<b>Applies to:</b>	● Administrators      ● Faculty      ● Staff      ● Students
<b>History:</b>	Revised - August 30, 2011 Approved – September 5, 2008
<b>Related Policies:</b>	<i>UNC Campus Safety Task Force Report</i> (Recommendation I-5) U. S. Department of Education, Office of Civil Rights (guidance on policies related to involuntary withdrawals) <i>FSU Threat Assessment</i> <i>FSU Code of Student Conduct</i>
<b>Contact for Info:</b>	Vice-Chancellor for Student Affairs (910) 672-1211 General Counsel (910) 672-1145 Dean of Students (910) 672-1385

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### I. PURPOSE

Fayetteville State University (FSU) considers the safety and welfare of its students, faculty and staff to be a top priority. When a student engages in behavior that violates FSU's *Code of Student Conduct* (the "Code"), the behavior will be addressed as a disciplinary matter under the applicable Code provision. The Code defines prohibited conduct and outlines a process for conducting disciplinary proceedings.

This *Involuntary Protective Withdrawal Policy* is not a substitute for appropriate disciplinary action. Further, this policy should not be used to dismiss socially or politically "eccentric" students who have not otherwise engaged in behavior that poses a danger to themselves or to others or which substantially disrupts the campus community or its activities. Involuntary protective withdrawal should be reserved for cases where interim measures, such as a behavioral agreement, are deemed inappropriate, are not followed, or cannot be agreed upon and/or in extraordinary circumstances in which the regular disciplinary system cannot be applied and after attempts to secure a voluntary withdrawal have been exhausted.

This policy is not intended to dismiss otherwise qualified students solely because of a disability status. This policy is intended to address serious observable behaviors exhibited by a student regardless of the student's disability status.

## **II. GROUNDS FOR WITHDRAWAL**

A student may be withdrawn involuntarily if FSU determines that the student represents a potential threat to health or safety because the student exhibits clinical signs that s/he has engaged in or is likely to engage in behavior, other than behavior that violates the Code, posing a significant risk of the following:

- Causing substantial harm to self or others;
- Impeding the lawful activities of other members of the campus community, or
- Impeding the educational processes or proper activities or functions of the University or its personnel.

## **III. CARE TEAM**

The CARE TEAM, which is a subcommittee of the Threat Assessment Team (TAT) shall assist in the rapid and accurate identification of students whose actions pose a threat to personal health and safety or to the safety of the larger campus community. The members of the care team shall be as follows:

- Dean of Students (Chair);
- University Psychologist; and
- Senior Associate Vice Chancellor for Academic Affairs

## **IV. COMMENCEMENT OF THE INVOLUNTARY PROTECTIVE WITHDRAWAL PROCESS**

### **A. Complaint to Vice Chancellor**

Information concerning a student who may exhibit behavior addressed by this policy should be submitted to the Vice Chancellor for Student Affairs (“Vice Chancellor”). Upon receipt of such information from a credible source, the Vice Chancellor may commence the involuntary withdrawal process. Anonymous information from a credible source will be acceptable. If a credible source wishes to remain anonymous, the Vice Chancellor may delegate an FSU official to interview the source and provide the reported information to the Vice Chancellor. Such delegated FSU official shall be allowed to stand-in for the anonymous informant during University proceedings under this Policy.

### **B. Referrals by Vice Chancellor**

When the Vice Chancellor, based on a student’s conduct, actions or statements, has credible cause to believe that a student meets the criteria for involuntary protective withdrawal, the Vice Chancellor shall immediately:

1. Ensure that campus police has been contacted if there is an imminent danger;
2. Ensure the conduct is referred to the Threat Assessment Team (TAT) in accordance with the University's *Threat Assessment Policy*; and
3. Refer the issue to the Dean of Students who will begin the process of determining whether the conduct violates the Code or whether the conduct should be governed by this policy.

**C. Determine Proper Jurisdiction**

The Dean of Students has the authority to determine whether the conduct should be governed by the Code or this policy. The Dean of Students shall have the final authority in this determination.

**D. Initiation of Involuntary Protective Withdrawal Process**

**1. Immediate Threat**

If there is an immediate threat, the Dean of Students, in consultation with other University officials, may initiate the emergency interim withdrawal process outlined in Section V of this policy.

**2. Assessing the Student**

If there is not an immediate threat, within three (3) business days of the Vice Chancellor's referral, the Dean of Students shall make an assessment of the student by utilizing the following process:

- a. **Meeting With the Student.** At the initial meeting with the student, the Dean of Students shall:
  - i. Review with the student available information concerning the behavior and/or incidents which have caused concern;
  - ii. Provide the student with a copy of this policy, discuss its contents with the student, and obtain the student's written understanding of it;
  - iii. Provide the student an opportunity to explain his/her behavior; and
  - iv. Discuss options available to the student including, but not limited to, counseling, voluntary withdrawal and/or evaluation for involuntary withdrawal.

- b. **Voluntary Withdrawal.** If the student agrees to withdraw voluntarily from the University and provides a written waiver of any right to any further procedures available under this policy, the student shall be immediately withdrawn, given a grade of “W” for all courses, and advised by the Dean of Students verbally and in writing of any prohibitions from campus involvement and conditions that must be satisfied prior to re-enrollment.
- c. **Involuntary Withdrawal Notice Process.** If the student does not choose to withdraw voluntarily from the University or if the student refuses or is unable to meet with the Dean of Students and the Dean of Students, in consultation with other University officials, determines that the student potentially meets the *Grounds for Involuntary Withdrawal* in Section II of this policy, the Dean of Students shall provide written notification to the student within two (2) business days of the meeting or a reasonable attempt to meet. The notification shall include the following:
- i. The factual basis of the cause for concern;
  - ii. The possibility that the University may invoke the process for involuntarily withdrawing the student;
  - iii. That the issue will be referred to the CARE TEAM;
  - iv. Whether emergency interim withdrawal is appropriate;
  - v. Whether the student shall be required to be evaluated by an appropriate mental health professional and the date and time of the evaluation;
  - vi. If applicable, that the student must provide written consent allowing the mental health professional and the University to exchange any needed information contained in the student, medical, or psychiatric record; and
  - vii. That failure to comply with the Dean of Students’ requirements could result in a Code violation and/or lead to emergency interim withdrawal.
- d. **Involuntary Withdrawal Not Necessary.** If the Dean of Students determines that the student should not be considered for involuntary withdrawal, the Dean of Students, in consultation with appropriate University officials, (1) shall terminate the involuntary withdrawal process; and (2) take any other action deemed

necessary or appropriate including, but not limited to, initiating disciplinary action, referring the student to the Center for Personal Development, or requiring a behavioral contract. Except as governed by the Code for a disciplinary action, this decision shall be final.

## **V. EMERGENCY INTERIM WITHDRAWAL**

- A. An emergency interim withdrawal may be implemented immediately by the Dean of Students if it is determined that the student may be suffering from a mental disorder and the student's behavior poses a significant danger of causing imminent physical harm to the student or to others, or of directly and substantially impeding the lawful activities of other members of the campus community.
- B. If the Dean of Students, in consultation with other FSU officials, determines that it is necessary to issue an emergency interim withdrawal of a student, the emergency interim withdrawal shall become effective immediately upon imposition without prior written notice. As determined by the Dean of Students, during the interim withdrawal, students may be denied access to on- and off-campus university facilities and grounds and be denied access to University sponsored activities, and (whether on or off-campus). A student who is found to have violated this section shall be issued a trespass citation by the Campus Police. Failure to comply with the Dean of Students' order(s) may result in a Code violation.
- C. The student shall be notified of the emergency interim action in writing. Such notice shall include the following:
  - 1. A description of the behavior(s) giving rise to the emergency interim action;
  - 2. A brief summary of the relevant evidence;
  - 3. A statement that the student may be required to submit to a mental health professional evaluation;
  - 4. A statement of any restrictions; and
  - 5. A statement that the student may request an interim withdrawal conference with the Vice Chancellor for Student Affairs, or his/her designee, within five (5) business days from the effective date of the interim withdrawal, in order to review the following issues only:
    - a. The reliability of the information concerning the student's behavior; and/or

- b. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University campus poses a threat.

Failure to comply with the requirements outlined in the letter could result in charges being filed under the Code.

- D. If the student requests an interim withdrawal conference, the following procedure shall apply to the conference:
  - 1. The conference shall be closed and shall be attended only by the following parties:
    - a. The student;
    - b. The Vice-Chancellor or his or her designee; and
    - c. Any other persons called by the Vice-Chancellor or his or her designee.
  - 2. The interim withdrawal conference shall be recorded.
  - 3. The conference shall begin with the student affirming that the student's testimony is truthful. A student who provides false information may be subject to charges of intentionally providing false information to the University, pursuant to Section IV.B.5.s of the Code.
  - 4. The student shall present evidence related to the issues outlined in Section V.C.6. of this policy. When the student has concluded his or her presentation, the Vice Chancellor may ask questions of the student. If any other parties are present, they shall also be allowed to ask the student questions.
- E. Once the student has given his or her final statements, the Vice Chancellor shall conclude the conference.
- F. A decision shall be made by the Vice Chancellor within two (2) business days after the conference. The Vice Chancellor shall make a determination as to whether or not the interim withdrawal will continue until a hearing is held, pursuant to Section VII of this policy. The student shall be notified in writing of the Vice Chancellor's decision. This decision shall be final.
- G. If a student is withdrawn immediately for emergency reasons, the Dean of Students shall arrange with the student's instructors a method for the student to complete his/her assignments, class participation, any examinations and/or any

other class requirements which are due during the emergency interim withdrawal period. Such arrangements shall not include the student's presence on campus.

## **VI. EVALUATION BY MENTAL HEALTH PROFESSIONAL**

- A. If the Dean of Students determines that a mental health evaluation is necessary, the Dean of Students shall select an appropriate mental health professional to evaluate the student and shall notify the student of the date, time and place of the evaluation. The cost of the evaluation shall be borne by FSU. If the student refuses the mental health evaluation, the Dean of Students (1) in consultation with appropriate University officials, may make a determination of whether emergency interim withdrawal is necessary (if it has not occurred) and (2) may continue the involuntary protective withdrawal process as if the student assented to the evaluation.
- B. The evaluation must be completed within five (5) business days after the involuntary withdrawal notice is provided to the student.
- C. Copies of the evaluation assessment shall be provided to the Dean of Students. Recommendations made as a result of the assessment shall not be binding on the University.
- D. The student must provide written consent allowing the mental health professional and the University to exchange any needed information contained in the student's educational, medical or psychiatric record. If a student refuses to consent to the exchange of information, the involuntary protective withdrawal process shall continue and the Dean of Students, in consultation with appropriate University officials, may determine whether emergency interim withdrawal is necessary and/or may charge the student with a Code violation for failing to follow a directive from a University official.
- E. The professional evaluating the student shall make an individualized and objective assessment of the student. The evaluation shall be based on a reasonable professional judgment relying on the most current professional knowledge and/or the best available objective evidence. This assessment shall include a determination of the following:
  - 1. The clinical signs the student exhibits;
  - 2. The nature, duration and severity of the risk posed by the student to the health or safety of himself/others;
  - 3. The probability that the potentially threatening act will actually occur;
  - 4. The imminence of the potentially threatening act;

5. Whether the University can reasonably mitigate the risk and if so how the University might do so; and
  6. Recommendations for withdrawal, treatment, behavioral contract or other reasonable modifications of policies, practices, or procedures.
- F. If the evaluation results in a determination that the student's continued attendance presents no significant risk to health or safety and there is no significant threat to property, to the lawful activities of others, or to the educational processes and orderly operations of the University, the Dean of Students, in consultation with appropriate University officials, may terminate this withdrawal process. The Dean of Students may take other appropriate action as necessary including, but not limited to, initiating a charge under the Code, entering a behavioral contract and/or implementing other actions.
- G. If the evaluation results in a determination that the continued attendance of the student presents a significant risk to the health or safety of the student or others, such that there is a high probability of substantial harm, or a significant threat to property, to the lawful activities of others, or to the educational processes and orderly operations of the University, the student must be informed of his/her right to an informal meeting ("Conference") with the CARE TEAM.

## **VII. CONFERENCE PROCEDURES**

### **A. Notification**

At least five (5) business days before the Conference, written notice of a Conference with the CARE TEAM shall be mailed to the student ("respondent") who is to appear before the CARE TEAM. The notice must include:

1. The date, time and place of the Conference;
2. A description of the alleged behavior which indicates that the student presents a significant risk to the health or safety of the student or others;
3. A list of any witnesses; and
4. A copy of the mental health professional evaluation, if available.

### **B. Appearance**

A respondent who has received notice to appear before the CARE TEAM must appear personally before the CARE TEAM. An emergency interim protective withdrawal will not be suspended pending a Conference under this Section.

**C. Continuances**

If the respondent desires additional time to prepare for the Conference, a written request must be submitted to the Dean of Students no less than forty-eight (48) hours prior to the date of the Conference. The Dean of Students reserves the right to deny or grant such a request. A decision whether to grant such a request shall be made within twenty-four (24) hours of receipt of the request. The Dean of Student's decision shall be final.

**D. Witnesses**

A witness shall be any person with direct knowledge relevant to the case pending before the CARE TEAM.

**1. Duty to Appear**

The Dean of Students, other CARE TEAM members, the Assistant/Associate Vice Chancellor for Student Affairs or the Vice Chancellor of Student Affairs and/or the CARE TEAM members may require the appearance of a witness. The respondent may request, through the Dean of Students or other CARE TEAM member, that a witness be made available for the Conference.

**2. Notice.**

The Dean of Students shall notify such witness(es) in writing of the time, date, location and purpose of their appearance. The respondent must provide the names and addresses of his or her witnesses at least twenty-four (24) hours before the Conference to the Dean of Students.

**3. Contempt**

Willful and deliberate failure and/or refusal of any student witness to honor a written request to appear may result in a contempt charge under Section IV.B.5d. of the Code.

**E. Observer**

The respondent may have an observer present at the hearing. An observer may be a parent, other relative, faculty member or student currently enrolled at the University. An observer shall not be allowed to participate in the Conference.

**F. Attorneys**

Attorneys shall not be allowed at the hearing.

**G. Failure to Appear**

If the respondent fails to appear at the scheduled Conference after receiving proper notice and without submitting a valid written excuse to the Dean of Students, the Conference will continue in absentia. The CARE TEAM will conduct the Conference in the student's absence and make a finding of whether involuntary protective withdrawal is necessary. The CARE TEAM shall forward its recommendation to the Associate Vice Chancellor of Student Affairs.

**H. Conduct of the Conference**

1. The Conference shall be closed and shall be attended only by the following parties:
  - a. The respondent and his or her witnesses and/or observer; and
  - b. The CARE TEAM members, and any other person called by the chair.
2. The Conference shall be recorded. The deliberation phase shall not be recorded. A tape of the Conference may be available to the respondent. Additionally, records generated by the hearing process are accessible only to the respondent and others as provided by law.
3. The Conference shall begin with the respondent affirming that his or her testimony is truthful. (The respondent may be subject to a charge of intentionally providing false information to the University, pursuant to Section IV.B.5.s., if the respondent does not present testimony that is truthful ) Thereafter, the respondent shall present evidence to the CARE TEAM that disproves the assessment that the respondent presents a significant risk to the health and/or safety of the respondent or others, a significant threat to property, to the lawful activities of others, or to the educational processes and orderly operations of the University.
4. When the respondent has concluded his or her presentation, the CARE TEAM members may question the respondent. Following questioning by the CARE TEAM, the respondent shall be provided an opportunity to make a final statement
5. Any witnesses called by the CARE TEAM or the respondent shall be asked to affirm that their testimony is truthful. Student witnesses may be subject to charges of intentionally providing false information to the University, pursuant to Section IV.B.5.of the Code, if it is determined that the information provided by the student is false. Prospective witnesses other than the respondent shall be excluded from the hearing during the testimony of other witnesses.

6. The CARE TEAM members may also seek such additional material or the attendance of such other persons as they judge necessary to an understanding of the incident even if it requires that the proceedings be continued until a further date. All decisions by the CARE TEAM shall be based solely upon evidence presented at the Conference.

### **VIII. THE DECISION OF THE CARE TEAM**

- A. Following the Conference, the CARE TEAM shall meet privately to discuss the case. Prior to 5:00 p.m. on the next business day following the hearing, the CARE TEAM will notify, through the Dean of Students, the respondent of its decision.
- B. The decision of the CARE TEAM must be decided according to whether it is “more likely than not” (preponderance of the evidence) that the student meets the Grounds for Withdrawal. In finding that involuntary withdrawal is appropriate under this standard of proof, at least two members of the CARE TEAM must be convinced, based upon information presented in the course of the hearing that the conduct described is more likely than not to warrant involuntary protective withdrawal.
- C. If the CARE TEAM finds that the evidence presented was insufficient to sustain that withdrawal is appropriate, it will notify the respondent and the Vice Chancellor for Student Affairs of its decision through the Dean of Students and take any other action deemed necessary or appropriate, including but not limited to initiating disciplinary actions, referring the student to the Center for Personal Development, implementing reasonable accommodations, or requiring a behavioral contract. Except as governed by the Code for a disciplinary action, this decision shall be final.
- D. If the CARE TEAM finds the respondent’s behavior warrants involuntary protective withdrawal, the CARE TEAM shall recommend to the Associate Vice Chancellor one of or a combination of actions that corresponds with the behavior. In determining the appropriate action, consideration should be given to the entire situation balancing the student’s emotional well-being with the risk to campus safety. The Associate Vice Chancellor shall issue his or her decision, on both the findings, conditions for re-enrollment, and time period of the withdrawal within ten (10) business days of receiving the CARE TEAM’s recommendation.

The CARE TEAM, in its discretion, may permit a student to remain enrolled on a probationary basis under specified conditions which may include, but are not limited to, participation in an ongoing treatment program, acceptance of and compliance with a behavioral contract, a housing relocation, a lighter academic course load, or any combination. When making its determination of appropriate probationary conditions, the CARE TEAM shall consult with appropriate faculty, residential staff (if the student resides on-campus) and other University officials.

Appeal rights shall be specified in the final decision letter along with the time limits in which to appeal and the permitted grounds for appeal.

- G. The involuntary protective withdrawal shall be documented as an “Administrative Withdrawal” on the student’s transcript.

## **IX. APPEAL RIGHTS**

A student who has been involuntarily withdrawn under this Involuntary Protective Withdrawal Policy may appeal the decision to the Vice Chancellor for Student Affairs. The bases for appeal shall be as following:

- A. Demonstration of a significant procedural error;
- B. The availability of compelling new evidence;
- C. Demonstration of bias on the part of a member of the CARE TEAM; and/or
- D. Demonstration that the student’s rights outlined in this Policy were violated.

A decision must be appealed within five (5) business days of the receipt of the decision from the Associate Vice Chancellor.

The decision shall not be appealable beyond the Vice Chancellor for Student Affairs unless otherwise required by state or federal law, or the University of North Carolina policy.

## **X. VOLUNTARY PROTECTIVE WITHDRAWAL**

At any point in the process, the student may present a request for a voluntary protective withdrawal to the Dean of Students. If the request is granted, the involuntary protective withdrawal process shall cease; however, voluntary withdrawal shall not terminate any pending disciplinary action.

If the student’s request for a voluntary withdrawal is granted, the student shall be subject to readmission requirements as described below.

The voluntary protective withdrawal shall be documented as an “Administrative Withdrawal” on the student’s transcript.

## **XI. READMISSION**

A student who is involuntarily or voluntarily withdrawn under this policy shall have the opportunity to re-enroll according to the time period specified in the Associate Vice Chancellor’s decision letter, but that period of re-enrollment may not be before the start of the next semester. Further, the CARE TEAM and the Vice Chancellor for Student

Affairs must approve the student's re-enrollment or readmission based upon a review of the record, including any new information relevant to the matter. The student shall not be entitled to a hearing or appeal of this decision.

As determined by the CARE TEAM and/or the Associate Vice Chancellor for Student Affairs, during an involuntary withdrawal, students may be denied access to the university, including but not limited to residence halls and other on- or off- campus facilities and grounds. Also, during the period of the involuntary withdrawal, the student shall not be allowed to attend University sponsored activities, whether occurring on- or off-campus. A student who is found to have violated this section shall be issued a trespass citation by the Campus Police.

## **XII. RECORDS AND FEES**

Information generated during the course of a Conference held before the CARE TEAM, the Dean of Students, the Associate Vice Chancellor for Student Affairs, and/or the Vice Chancellor for Student Affairs shall be confidential in accordance with the Family Educational Rights and Privacy Act (FERPA). Any person who, without authorization, reveals such information may be subject to disciplinary action.

Voluntary or Involuntary Protective Withdrawal records shall be permanently retained as official records, unless the student is readmitted and successfully completes a degree, at which point the record shall be removed five (5) years after the date of readmission. A student's prior protective withdrawal record shall be considered only during the condition phase of deliberations, not to determine whether or not the student should be withdrawn from the university.

Applicable federal and state laws regarding the privacy of educational records shall govern the release of student disciplinary records.

The policies and procedures for fee refunds and indebtedness described by the Graduate and Undergraduate Catalogs, the Student Handbook and the Offices of the Registrar and Division of Business and Finance shall apply to students who withdraw, voluntarily or involuntarily, under this policy.