



## **NORTH CAROLINA A&T STATE UNIVERSITY**

### **CHAPTER 400 – SAFETY AND HEALTH**

#### **UNIVERSITY POLICY 409, TRESPASS**

#### **SECTION 409.1 POLICY STATEMENT**

Individuals who violate federal and state laws or the policies of North Carolina A&T State University (“NC A&T” or “University”) and pose a risk to the safety or security of the University community have no “right” to be on University property, and may be advised to leave by the Chancellor or authorized University officials. These individuals may be trespassed from University property by use of a trespass warning in accordance with N. C. Gen. Stat. §§14-159.12 or 14-159.13, or as authorized by this Policy.

#### **SECTION 409.2 PURPOSE**

The purpose of this policy is to establish guidelines concerning the circumstances under which an individual’s access to or presence on University property may be restricted, withheld, withdrawn, or removed as to some or all areas of University property.

#### **SECTION 409.3 SCOPE**

This policy applies to all University faculty, staff, students, contractors, visitors, and any other individual on University property.

#### **SECTION 409.4 AUTHORITY**

NC A&T State University’s Chancellor has delegated to the primary authority to restrict, withhold, or remove access to University property from persons who pose a threat or risk to the safety and security of the University community or University property to the University Police Department (UPD). Trespass orders may be issued by University police officers or by any other authorized University official.

#### **SECTION 409.5 DEFINITIONS**

- (1) “University property” means property owned or leased by the State of North Carolina and allocated to NC A&T, any NC A&T affiliated foundation and/or endowment, and any form of NC A&T transportation.
- (2) “Authorized University official” for purposes of this policy means any UPD officer, Associate Vice Chancellor for Student Affairs/Dean of Students, Director of Student Conduct Office, or Director of University Housing.

## **SECTION 409.6      TRESPASS**

- (a) A person has been “trespassed” when a no trespassing notice is posted on property, or when an authorized University official has provided oral or written notice to a person that the person should not be on certain property.
- (b) A trespass warning may include notice that the person is not to be within a certain distance of one or more other persons, as well as notice to not be present on University property. A person also commits trespass by entering property that is enclosed or secured in a manner that indicates the person should not be there (e.g., a locked building, laboratory that has been closed for safety inspection).
- (c) A trespass is effective immediately when issued.
- (d) Individuals subject to the trespass should not return to the restricted area until the trespass expires or is rescinded or modified in writing.

## **SECTION 409.7      GROUNDS FOR TRESPASS**

An individual may be trespassed from University property for the following reasons:

- (1) Commission or conviction of any criminal offense, regardless of where it occurred;
- (2) Threatening and/or interfering with a member of the University community, including faculty, staff, students, contractors and visitors, or has acted in a manner that poses or indicates a reasonable threat to disruption of normal University operations;
- (3) Violation of law, policies, or procedures;
- (4) Engaging in behavior or conduct that presents a threat or risk to the safety and security of the University community or University property;
- (5) Circumstances indicate that the individual is behaving in a manner that reasonably implies prowling without a reasonable explanation;
- (6) Engaging in behavior or conduct that obstructs, disrupts, interrupts or attempts to force the University to cancel or postpone any University-sponsored event or activity; or
- (7) Individual on University property without justification or legitimate reason; or
- (8) Individual is in a restricted area or area with a posted no trespass warning.

## **SECTION 409.8      NON-PUBLIC AREAS OF UNIVERSITY BUILDINGS**

The areas of University academic, research, public service, and administrative buildings of the University used for classrooms, laboratories, faculty and staff offices, and the areas of University student residence buildings used for student living quarters are not open to the public. Any person not authorized to be or remain in any such building may be deemed to be trespassing on University property and may be cited for trespass in violation of N.C. law.

## **SECTION 409.9      UNIVERSITY BUILDINGS AFTER CLOSING TO THE PUBLIC**

Many University buildings are open to the public at designated times, which are posted at building entrances. Some University buildings are closed and locked when they are not open to the public.

Some University buildings are closed to the public at designated times, but remain unlocked for access and use by students, faculty, staff, and other authorized individuals. Individuals who are not authorized by the University to be in a University building after the posted time of closing to the public may be trespassed from University and subject to prosecution.

#### **SECTION 409.10 DURATION OF TRESPASS**

- (a) Trespass shall be limited in scope to that which is reasonably necessary to protect the University community.
- (b) The duration of a trespass under this policy is up to one year unless otherwise specified, modified during appeal, or is issued pursuant to a judicial order.
- (c) Any University police officer who issues a trespass may lift or reduce the effective period of the trespass if the officer determines that circumstances justify removal or reduction of the trespass.
- (d) An authorized University official who determines that a trespass should be rescinded or shortened before the expiration of the trespass period must consult with the Office of Legal Affairs prior to taking action to rescind or shorten the trespass. Any rescission or shortening must be in writing with a copy provided to UPD at the same time that it is transmitted to the trespassed individual.

#### **SECTION 409.11 STUDENT CONDUCT MATTERS**

- (a) Students who are suspended on an interim basis, suspended for a specified period, or expelled from NC A&T for a violation of the Student Conduct Regulations may be trespassed from a specific area or all University property by the Chancellor, Vice Chancellor of Student Affairs, Associate Vice Chancellor for Student Affairs/Dean of Students, Director of the Student Conduct Office, or UPD.
- (b) Students removed from University housing facilities on an interim or permanent basis may be trespassed from University housing facilities by the Director of Student Housing, the Associate Vice Chancellor for Student Affairs/Dean of Students, Director of the Student Conduct Office, or UPD.
- (c) Any trespass issued shall be in writing and inform the individual:
  - (1) of the specific areas from which the individual has been trespassed;
  - (2) the duration of the ban;
  - (3) the reason for the ban; and
  - (4) that if they return to the specified property, they will be subject to arrest for criminal trespass.
- (d) Upon receipt of a suspension or expulsion letter from the Associate Vice Chancellor for Student Affairs/Dean of Students or Director of Housing, UPD shall prepare a trespass warning and serve it on the student or send it via certified mail, return receipt to the student

and to the student's University-issued email account. The trespass will coincide with the conditions set forth in the suspension or expulsion letter, or length of the eviction, as applicable. If necessary, UPD will serve the trespass warning and disciplinary letters directly to the student.

- (e) Trespass issued pursuant to any suspension or expulsion shall remain in effect until the student's suspension ends or the expulsion is lifted, subject to Section 1107.9.

#### **SECTION 409.12 EMPLOYEES**

- (a) A manager, supervisor, or human resources professional may request that an employee be trespassed from a specific area of campus or from University. The administrator making the request must provide a written statement explaining the reason for the trespass request that includes their full name, title, department, telephone number, and email address. The administrator shall be advised that testimony may be required.
- (b) UPD must determine from the facts provided by the administrator whether the evidence supports a trespass warning. If the facts do not support a trespass warning, UPD shall not issue a trespass. If the facts support a trespass warning, UPD shall issue the trespass and complete any other required documentation.

#### **SECTION 409.13 TRESPASS ADMINISTRATION**

- (a) UPD shall maintain a listing of trespassed individuals.
- (b) Authorized University officials who issue a trespass must notify UPD and provide a copy of any written trespass to UPD within five (5) days.
- (c) Any NC A&T student or employee trespassed from University property shall receive written notice of the trespass.
- (d) If a lawfully trespassed individual refuses to leave University property after warning or returns while a trespass remains in effect, UPD may arrest the individual for criminal trespass.
- (e) If UPD responds to assist with an individual believed to have been trespassed from University property and an arrest for trespass cannot be substantiated at the time of response, the officer should provide another warning and direct or escort the individual being trespassed from University property. If a later review of the incident by UPD indicates that the individual was trespassed, officers may obtain a warrant for trespassing.

## **SECTION 409.14 APPEAL REVIEW AND DECISION**

### **Section 409.14.1 Administrative Trespass**

Appeals for administrative trespasses resulting from a violation of the Student Conduct Regulations or Housing Code Violations are controlled by the applicable student discipline procedures.

### **Section 409.14.2 Police Trespass**

- (a) An individual who received a trespass warning from a UPD officer may appeal the trespass by submitting a written appeal to the Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee within ten (10) business days of the date that the trespass was issued. The trespass remains in effect during the appeal unless the Associate Vice Chancellor for Police and Public Safety or designee suspends the order pending review of the appeal.
- (b) The written appeal must be made by the person who received it and is subject to the trespass order. If the trespasser is a juvenile, then the request shall be made by a parent or legal guardian. Any written appeal must include:
  - (1) the person's contact information;
  - (2) trespass notice information;
  - (3) date of issuance;
  - (4) reason for being on University property that resulted in the trespass;
  - (5) the person's future need to be on University property;
  - (6) a detailed written statement of the basis for the appeal, along with any other documents, photos, data, statements of witnesses or other individuals; and
  - (7) any other information for the Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee consideration.
- (c) The Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee shall review the written appeal and the record of the trespass to determine if the trespass was issued in compliance with this Policy and state and federal law.
- (d) The Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee may meet with the individual requesting the review, the issuing officer, and any witnesses concurrently to gather additional information in order to determine the outcome of the appeal.
- (e) The Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee may uphold, rescind, or modify the trespass in a written decision that must be mailed or emailed to the individual appealing the trespass. The Associate Vice Chancellor for Police and Public Safety/Chief of Police or designee shall inform the person in writing of the decision within 10 business days of receiving the written appeal.

- (1) If the decision is to uphold the order, the order will be restated to the person. If the order is for the entire campus, the person so warned will be given a reasonable amount of time to leave the campus.
- (2) If the decision modifies or withdraws the order:
  - The alteration or withdrawal is effective immediately;
  - If the order is altered, the Associate Vice Chancellor for Police and Public Safety or designee will issue a new order and notify the officer who issued the order under review.
  - If the order is modified or withdrawn, the original warning will be removed from department files.
- (3) A trespass order may be withdrawn only for the following reasons:
  - Prejudicial error on the part of the officer giving the order, including misapplication or misunderstanding of applicable law;
  - Failure to prepare adequate documentation on the part of the officer giving the order;
  - Substantially compelling or changed circumstances as determined by the Associate Vice Chancellor for Police and Public Safety or designee.
- (4) Trespass order may be modified only for the following reasons:
  - Prejudicial error on the part of the officer(s) giving the order, including a misunderstanding or misapplication of applicable law.
  - To allow the person given the order to engage in any lawful activity open to the public on University property that was not part of the original order.
  - Substantially compelling or changed circumstances, as determined by the Associate Vice Chancellor for Police and Public Safety or designee.

#### **SECTION 409.15 TRESPASS ARREST**

- (a) University Police may arrest an individual who refuses to leave University property after being asked to leave by an authorized University official who issued a lawful trespass in the scope of their duties.
- (b) University Police officers may issue a citation or arrest an individual in restricted areas or areas with posted no trespass notices, if appropriate.
- (c) Court orders and University disciplinary decisions remain effective for the duration stated in the order/decision, and may result in an arrest for violations during that period.
- (d) A person who has been warned and refuses to leave may be arrested.
- (e) In areas that are properly posted “no trespassing,” officers are authorized to issue a citation or make an arrest for second degree trespass, where appropriate.
- (f) Officers may arrest when a person is detained on campus property and records indicate a previous trespass warning notice. Written warnings, court orders and University disciplinary order/decisions remain in effect for the duration stated in the order/decision, and may result in arrest for that time period.

- (g) If there is any doubt concerning the arrest, the officer should give another warning and escort the person from campus. If a review of the incident by campus police officials indicates the individual was trespassing, officers may obtain a warrant for second degree trespass.
- (h) A no-trespass warning remains in effect until modified or withdrawn in writing by an authorized University official. Regardless of whether a no-trespass notice has been issued, any person who is deemed to have committed a crime may be arrested by law enforcement and referred for prosecution.

**POLICY HISTORY:**

Eff. August 14, 2023

**AUTHORITY:** Chancellor

**POLICY OWNER:** Vice Chancellor for Business and Finance

**RESPONSIBLE OFFICE:** University Police Department