ELIZABETH CITY STATE UNIVERSITY
Policy on Sex and Gender Based Discrimination and
Harassment, Interpersonal Violence and Stalking

Related Policies:
UNC SHRA Employee Grievance Policy at the following link:
https://files.nc.gov/ncoshr/documents/files/Employee_Grievance_Policy-University_0.pdf
ECSU Sexual Harassment Policy #900.1.2
ECSU Workplace Violence Policy #200.1.7

I.  Preamble

The University is committed to providing an inclusive and welcoming environment for all members of our community. The University values safety, diversity, education, equity, and is firmly committed to maintaining a campus environment free from Sex and Gender Based Discrimination and Harassment, Interpersonal Violence, and Stalking.

This Policy prohibits all forms of Discrimination and Harassment based on sex, sexual orientation, gender, gender identity, and gender expression. This Policy defines “Prohibited Conduct” as: Sex or Gender-Based Discrimination and Harassment (which includes; Sexual Harassment, Sexual Assault, and Sexual Exploitation), Interpersonal Violence (which includes Relationship Violence, Dating Violence, and Domestic Violence), and Stalking. Prohibited Conduct also includes Complicity, and Retaliation. Students, faculty, or staff who violate this Policy may face discipline, up to and including, expulsion or termination. This Policy and associated procedures apply to students, faculty, staff, contractors, visitors, and third parties.

ECSU is committed to providing a safe learning and working environment. In compliance with federal laws, policies, and procedures this policy has been adopted to prevent and respond to Prohibited Conduct impacting the members of our campus community. Further, this policy prohibits behavior that violates Title IX of the Education Amendments of 1972 ("Title IX"); Title VII of the Civil Rights Act of 1964 ("Title VII"), and North Carolina law. Further, Prohibited Conduct requires the University to fulfill certain obligations under the Violence Against Women Reauthorization Act of 2013 ("VAWA") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

The University adopts this policy with a commitment to eliminating, preventing, and addressing the effects of Prohibited Conduct; while fostering the University's community of trust. The University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The University conducts ongoing education, prevention, awareness, and training programs for students, faculty, and staff to facilitate the goals of this policy.

It is the responsibility of every member of the University community to foster an environment free from Prohibited Conduct. All members of the University community are encouraged to take
reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. The University will support and assist community members who take such actions.

II. Procedures

There are specific procedures for reports under this Policy based on the relationship of the Complainant or Respondent to the University:

A. Procedures for reporting and responding to Prohibited Conduct involving a student as a Respondent and/or Complainant.

B. Procedures for reporting and responding to Prohibited Conduct involving faculty or staff as a Respondent and/or Complainant. These above Procedures are included in this Policy. The below Procedures are found in the ECSU Policy and Procedures Manual:

C. Procedures for reporting and responding to concerns of Prohibited Conduct involving EHRA Faculty and EHRA Non Faculty and SHRA Employees.

III. Title IX Coordinator Role and Responsibilities

A. Title IX Coordinator

ECSU has a designated Title IX Coordinator who oversees the University's administrative response to all reports of Title IX associated Prohibited Conduct as outlined in the Preamble of this document. The Title IX Coordinator shall receive training on at least an annual basis on issues related to Sex and Gender Based Discrimination and Harassment, Interpersonal Violence, and Stalking. The Title IX Coordinator is:

i. Responsible for overseeing the administrative investigation of all reports of Prohibited Conduct involving students, faculty and staff;

ii. Knowledgeable and trained in University policies and procedures and relevant state and federal laws;

iii. Available to advise any individual, including a Complainant, Respondent, or a third party, about University and community resources and reporting options;

iv. Available to provide assistance to faculty or staff regarding how to respond appropriately to a report of Prohibited Conduct;

v. Responsible for the effective implementation of this Policy, including monitoring, compliance with all procedural requirements, record keeping, and timeframes;
vi. Responsible for overseeing educational, training, awareness and prevention efforts, and conduct annual reviews of climate and culture;

vii. Responsible for ensuring compliance with the University Title IX Complaint Process;

viii. Responsible for reviewing this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed);

ix. Responsible for including the opportunity for individuals affected by the Policy to provide feedback;

x. Responsible for preparing an annual report, publicly available, which will include recommendations; incorporate an aggregate view of reports on resolution and climate; and steps taken to improve the delivery of services and the effectiveness of the Policy and procedures.

B. **Title IX Investigator**

Investigates and helps to ensure timely resolution of assigned reports of sex discrimination, sexual misconduct, sexual harassment, domestic violence, dating violence, and stalking involving members of the University community

IV. **Definitions**

A. **Sex or Gender Based Discrimination:** Any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual’s sex or gender and that is sufficiently serious to unreasonably interfere with or limit:

i. A student’s or applicant’s ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing);

ii. An employee’s or applicant’s access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment);

iii. A guest’s or visitor’s ability to participate in, access, or benefit from the University’s programs.

B. **Sex or Gender Based Harassment:** A type of discrimination that occurs when verbal, sexual, physical, electronic, or another form of conduct based upon an individual's sex or gender interferes with that individual's education, employment, or participation in a University program or activity.
C. Sexual Harassment: Unwelcome verbal, physical, electronic, or other forms of conduct of a sexual nature that significantly interferes with that individual’s education, employment, or participation in a University program or activity. There are two types of Sexual Harassment: Hostile Environment Harassment and Quid Pro Quo Harassment.

D. Hostile Environment Harassment: Unwelcomed conduct by an individual against another individual based upon sex or gender that is so severe, persistent, and/or pervasive that it alters the conditions of education, employment, or participation in a University program or activity and creates an environment that a reasonable person, in similar circumstances and with similar identities, would find hostile, intimidating, offensive, or abusive. An isolated incident, unless sufficiently serious, will usually not amount to Hostile Environment Harassment.

E. Quid Pro Quo Harassment: Unwelcomed conduct by an individual against another individual based upon sex or gender where submission to, or rejection of, such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a University program or activity.

F. Sexual Assault: A severe form of Sexual Harassment that involves intentional touching or penetration of another person’s clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner without consent. Sexual Assault also includes causing another person to touch their own or another’s body in the manner described above.

G. Sexual Exploitation: A form of Sexual Harassment that involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit:

i. Taking sexual advantage of another person without consent;
ii. Taking advantage of another’s sexuality; or
iii. Extending the bounds of consensual sexual contact without the knowledge of the other individual.

Examples of Sexual Exploitation include, but are not limited to:

i. Threatening to disclose an individual’s sexual orientation, gender identity, or gender expression;
ii. Observing another individual’s nudity or allowing another to observe the same, without the knowledge and consent of all parties involved;
iii. Non-consensual streaming of images, photography, video, or audio recording of sexual contact or nudity, or distribution of such without the knowledge and consent of all parties involved;
iv. Prostituting another individual; knowingly exposing another individual to a sexually-transmitted infection, without the individual’s knowledge;

v. Knowingly failing to use contraception without the other party’s knowledge; and
vi. And inducing incapacitation for the purpose of taking sexual advantage of another person.

**H. Interpersonal Violence** (commonly referred to as dating violence, domestic violence and relationship violence): can encompass a broad range of abusive behavior including; physical, sexual, emotional, economic, or psychological actions or threats of actions that a reasonable person in similar circumstances, and with similar identities, would find intimidating, frightening, terrorizing, or threatening, and is committed by a person who is or has been:

i. In a romantic or intimate relationship with the Complainant (of the same or different sex);

ii. The Complainant’s spouse or partner (of the same or different sex);

iv. The Complainant’s family member; or

v. The Complainant’s cohabitant or household member, including a roommate.

Such behaviors may include threats of violence to one’s self, one’s family member, or one’s pet. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

**I. Stalking:** is unwanted attention, repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear for a reasonable person in similar circumstances and with similar identities.

**J. Complicity:** Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

**K. Retaliation:** is defined as any action taken in response to a complaint that would discourage a reasonable person from participating in the complaint process. The complaint process includes: good faith report of Prohibited Conduct, participation in the investigation of or follow up to a complaint, and includes action taken against a bystander who intervened to stop or attempt to stop Prohibited Conduct.

Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation in the process. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances. Fear of retaliation should never be an obstacle to report an incident. All persons who believe they have been subjected to Prohibited Conduct or retaliated against under this policy have the right to seek support, utilize available resources, and come forward with their concern or complaint. Protection against retaliation applies to the Complainant, Respondent, witness, or bystander.
L. **Consent**: is freely and actively given when both parties agree to engage in a specific sexual activity. It is the responsibility of the initiator, that is, the person who initiates the specific sexual activity, to make sure that they have consent from their partner(s). Consent is explicit when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same act, in the same way, at the same time, with each other. Consent must be knowing, active, voluntary, present, and ongoing.

The following should also be considered in determining consent:

i. Consent may not be inferred from silence, passivity, or lack of active resistance alone;

ii. A current or previous dating or sexual relationship (or the existence of such a relationship with anyone else) may not, in itself, be taken to imply consent;

iii. Consent cannot be inferred by an individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date;

iv. Consent to one type of sexual act may not, in itself, be taken to imply consent to another type of sexual act;

v. Consent cannot be given if a person is incapacitated; and

vi. Consent may be withdrawn at any time.

Consent must be freely given and cannot be the result of force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm - whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (undue pressure), fraud (misrepresentation or material omission about oneself or the situation in order to gain permission for sexual or intimate activity), or the fear of any of the above.

Consent may never be given by any of the following:

i. Minors (under the age of 16 in North Carolina);

ii. Mentally disabled persons;

iii. Individuals who are incapacitated as a result of alcohol or other drugs, or who are unconscious, asleep, or otherwise physically helpless. Incapacitation means being in a state where an individual lacks the capacity to appreciate the nature of giving consent to participate in sexual activity.

M. **Incapacitation**: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include; sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact.
Alcohol or drug use is one of the prime causes of incapacitation. Where alcohol or drug use is involved, incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is incapacitated, and therefore unable to give consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

i. Making decisions about the potential consequences of sexual contact;
ii. Appraising the nature of one’s own conduct;
iii. Communicating consent to sexual contact; or
iv. Communicating unwillingness to engage in sexual contact.

Where an individual’s level of impairment does not rise to incapacitation, it is still necessary to evaluate the impact of intoxication on consent.

In evaluating whether consent was sought or given, the following factors may be relevant:

i. Intoxication may impact one’s ability to give consent and may lead to incapacitation (the inability to give consent).

ii. A person’s level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.

iii. An individual’s level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism.

An individual may not engage in sexual activity with another whom one knows, or should reasonably have known, is incapacitated as a result of alcohol or other drugs. The perspective of a reasonable person will be the basis for determining whether an individual should have known about the effect of the use of alcohol or drugs on another's ability to give consent. A Respondent being under the influence of alcohol or drugs does not diminish an individual's responsibility to obtain consent and is never an excuse for sexual misconduct.

N. Complainant: individual(s) who alleges that an act of sexual misconduct occurred against them

O. Responding Party or Respondent: individual(s) who are accused of doing an act of sexual misconduct against another individual(s)
P. **Reporting Party**: individual(s) who inform the Title IX Office and/or police about any allegation of sexual misconduct (Complainant may also be the Reporting Party.)

V. **Resources and Support**

Understanding the Difference between Making a Report to the University or Law Enforcement and Seeking Confidential Assistance.
There is a distinction between making a report to the University or Law Enforcement and seeking assistance through Confidential Resources.

A. **Reporting Options**
Making a report to the University or Law Enforcement means that the report will be shared with the Title IX Coordinator; they will communicate with the Complainant to provide resources and support and identify the appropriate action to respond to the report as outlined in this Policy. In addition, many University employees, designated as Responsible Employees, are required to share information with the Title IX Coordinator and/or Law Enforcement. There are many options for resolution of a report, and a Complainant is encouraged to make a report even if that individual is not seeking disciplinary action against a Respondent. The University will make every effort to respect a Complainant’s autonomy in determining how to proceed. Support and resources are always available to a Complainant regardless of the chosen course of action.

B. **Confidential Resources**
In contrast, information shared with a Confidential Resource will not be disclosed to anyone else, including the University, Title IX Coordinator, or the University Police, except under very limited circumstances. Any individual may choose to seek support from confidential professionals on and off campus, including counselors, medical health providers, and clergy. Confidential Resources on campus may be found in the Counseling and Testing Center, Student Health Services. Confidential Resources off campus may be found at the Albemarle Hopeline. Contact information for Confidential Resources is listed below:

**Counseling and Testing Center**
200 Griffin Hall
252-335-3273

**Student Health Services**
300 Griffin Hall
252-335-8535

**Albemarle Hopeline**
252-338-5338
24 hour hotline/advocacy services 252-338-3011
C. On Campus Resources
ECSU offers important resources to the Complainant, Respondent, and witnesses of Prohibited Conduct, including medical treatment, counseling and advocacy. At ECSU, the Office of Dean of Students and the Counseling and Testing Center are available to assist any student free of charge. The Office of Human Resources is available to help any faculty and staff also free of charge. These offices will help the Complainant and Responding Party consider their options and navigate through any resources or recourse they elect to pursue. Contact information for on campus resources are listed below:

Office of the Dean of Students
500 Griffin Hall
252-335-3276

Counseling and Testing Center
300 Griffin Hall
252-335-3273

Counseling and Testing Center
200 Griffin Hall
252-335-3273

Student Health Services
300 Griffin Hall
252-335-8535

Title IX Coordinator/Investigator
N. Kathryn Underwood-Melton
226 Marion D. Thorpe Administration Bldg.
Elizabeth City, NC 27909
252-335-3600
titleixcoordinator@ecsu.edu
nkunderwood@ecsu.edu

D. Off Campus Resources
The City of Elizabeth City offers important resources to the Complainant, Respondent, and witnesses of Prohibited Conduct, including medical treatment, counseling and advocacy. Contact information for off campus resources are listed below:

Sentara Albemarle Hospital
1144 N. Road St
Elizabeth City
252-335-0531
**Albemarle Hopeline (free, confidential non-profit)**
252-338-5338
24-hour hotline/advocacy services
252-338-3011

**NC Coalition Against Sexual Assault (free, confidential non-profit)**
811 Spring Forest Rd. Suite 900
Raleigh, NC 27609
919-871-1015

**E. Support for the Complainant and Respondent**
The Title IX Coordinator, in concert with the Dean of Students in cases involving students, will identify supports and resources available to address the effects of the alleged prohibited conduct on the Complainant and Responding Party, restore the Complainant's and Responding Party's safety and well-being, and maximize the Complainant's and Responding Party's educational and employment opportunities.

The University will consider the appropriateness of support, including continued interim measures, and accommodations to assure the safety and well-being of the parties throughout the process. (Interim measures are temporary measures used to stabilize the situation, stop the sexual misconduct, support the people involved in the report and the community, and protect the integrity of the investigation. These measures are available to all parties and can be put in place by the university whether the report is resolved informally or formally.) Support may include extending any interim measures or implementing additional measures tailored to achieve the goals of this Policy. Examples of support measures may include:

i. Counseling services;

ii. Rescheduling of exams and assignments;

iii. Providing alternative course completion options;

iv. Change in class schedule, including the ability to drop a course without penalty or to transfer sections;

v. Change of grade to an incomplete or withdrawal;

vi. Opportunity to complete missed work in a course or to retake a course without charge;

vii. Change in work schedule or job assignment;

viii. Change in student's University housing accommodations

ix. Assistance from University support staff in completing housing relocation;

x. Voluntary leave of absence or return from leave of absence;

xi. Academic support services and resources; and

xii. Assistance in obtaining accommodations such as tutoring.
F. Interim Measures and Accommodations
The University will take immediate action to eliminate a hostile environment, prevent its recurrence, and address its effects. The University may also take interim measures to assist or protect the parties during the grievance process, as necessary. Whether or not a student, faculty, or staff member reports to the Title IX Office, the University is committed to providing a safe learning and working environment. Upon request, the University will make any reasonably available change to a Complainant or Respondent's academic, living, transportation, and/or working situation. Students, faculty, and staff may contact the Title IX Coordinator for assistance in ensuring they receive proper interim measure(s).

G. Amnesty
The University shall grant amnesty to students who may have violated the University's prohibition against having alcohol on campus or under-age drinking if they became a Complainant of, or witness to, Prohibited Conduct. Therefore, the University shall not file charges against a student who reports Prohibited Conduct and was under the influence of alcohol. Amnesty shall also be granted to students who initiate and seek medical assistance and aid on behalf of another student or friend experiencing an emergency related to Prohibited Conduct related to this Policy. Any person who makes a report will not be subject to disciplinary action by ECSU for their own personal consumption of alcohol or other drugs, during the time related to the incident, provided that the consumption did not harm or place the health or safety of any other person at risk. The Office of the Dean of Students may require a follow up meeting in which support, resources, and educational counseling options may be required for a person who has engaged in the prohibited use of alcohol or illegal drugs.

VI. Reporting Prohibited Conduct

A. Reporting to the Title IX Coordinator
Reports of Prohibited Conduct may be made to the Title IX Coordinator via email, phone, or in person at the contact information below:

Title IX Coordinator/Investigator
N. Kathryn Underwood-Melton
226 Marion D. Thorpe Administration Bldg.
Elizabeth City, NC 27909
252-335-3600
titleixcoordinate@ecsu.edu

If the Complainant requests anonymity or does not wish to have an investigation they may make a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threats, use of weapons, and/or violence, the University may be unable to honor the request. In cases where the Complainant requests anonymity or to not move forward with an investigation and the circumstances allow the University
to honor that request, the University will offer interim measures to the Complainant and the community, but will not otherwise pursue formal action. Reporting to the Title IX Office still affords privacy to the Complainant; only a small group of University officials who have an education or legal need to know will be informed. Information will only be shared as necessary with investigators, witnesses, and the Respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a Complainant's privacy.

The Title IX Coordinator may issue a no contact order during the investigation and/or pending the outcome of any conduct proceeding and may extend it after the conduct proceeding or investigation is complete, regardless of outcome.

The Title IX Investigator will not wait for the conclusion of a law enforcement investigation or proceeding to begin the University's administrative investigation. However, the Title IX Coordinator will coordinate with law enforcement to minimize any interference between University processes and law enforcement investigation.

Additionally, anonymous reports can be made by the Complainant and/or third parties at: https://cm.maxient.com/reportingform.php?ElizabethCityStateUniv&layout_id=7. Depending on the amount of information available about the incident, or the individuals involved, the University’s ability to respond to an anonymous report may be limited.

B. Reporting to the University Police

The University encourages students to report incidents of Prohibited Conduct to the appropriate local law enforcement agency (911); however, the Complainant is not required to report the incident to law enforcement. If the Complainant does wish for a criminal investigation to take place, they may make such a request to University Police who will evaluate that request in light of their duty to ensure the safety of the campus and comply with state law. If the incident occurred on University owned or leased property, the University's Police Department is the appropriate agency with which to file a report.

If the Complainant reports to University Police or local law enforcement, University Police will provide reasonable assistance to the Complainant in obtaining a North Carolina no contact/restraining order from a criminal court if the Complainant wants one. The University is committed to ensuring that any such order is fully upheld on all institutionally owned and controlled property. Once a complaint is made to University Police, their office shall notify the Complainant of their right to file a complaint with the University’s Title IX Office, in addition to filing a criminal complaint. These complaints may be filed concurrently at the election of the Complainant. Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decide to investigate the matter is determinative of whether a violation of this policy occurred. The Title IX Office’s investigation is conducted separately from University Police, although both offices may work closely together.
If an incident of Prohibited Conduct occurs it is important to preserve evidence to aid in the possibility of a successful criminal prosecution. The Complainant should not wash, douche, use the toilet, or change clothing prior to a medical exam. Any clothing removed should be placed in a paper bag. Evidence of violence, such as bruising or other visible injuries, following an incident of domestic or dating violence, should be documented including through the preservation of photographic evidence. Evidence of stalking, including any communication, such as written notes, voice mail, or other electronic communications, should be saved and not altered in any way.

Information obtained through the criminal investigation may be used by the Title IX Coordinator for consideration in the University disciplinary process. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of the Student Code of Conduct, criminal investigations or reports are not determinative of whether Prohibited Conduct, for purposes of this Policy, has occurred. The Student Conduct process may constitute Prohibited Conduct under this Policy even if a law enforcement agency lacks sufficient evidence of a crime and therefore declines to prosecute. Reports to the University Police can be made through the information below:

**Chief of Police**
John Manley
142 Thomas Jenkins Bldg.
252-335-3555
jhmanley@ecsu.edu

C. Reporting Off Campus Conduct to Local Law Enforcement

Prohibited Conduct that occurs off-campus can be the subject of a university complaint or report and will be evaluated to determine whether it violates this policy. If the incident occurred off University property, University Police will assist the Complainant with reporting the incident to the appropriate local law enforcement agency. Because Prohibited Conduct constitutes a violation of University policy, the University encourages individuals to report alleged Prohibited Conduct promptly to campus officials whether or not they have reported to a local law enforcement agency.

D. Responsible Employees

Faculty and staff with supervisory and leadership responsibilities on campus are considered Responsible Employees. This includes faculty and staff with a responsibility for student welfare. In order to proactively enable the University to respond effectively and to stop all Prohibited Conduct involving students at the University, all Responsible Employees must immediately report information they have about alleged or possible Prohibited Conduct to the Title IX Coordinator.

Responsible Employees include*: (1) a person designated as a supervisor of any University employee (i.e. Board of Trustees, Chairs, Deans, Administrators); (2) any person who is designated as a Campus Security Authority; or (3) any ECSU employee
responsible for coordinating or supervising clinical education experiences, practicum and/or internships. Responsible Employees must report incidents of Prohibited Conduct to the Title IX Coordinator and must not attempt mediation with the Complainant and Respondent. Faculty and other ECSU employees who are responsible for coordinating or supervising clinical education experiences, practicum and/or internships are considered to be Responsible Employees with respect to the students participating in those experiences, and are required to report any allegations of Prohibited Conduct that they receive relating to those students to the Title IX Coordinator. The University reserves the right to take disciplinary action against a Responsible Employee, up to and including discharge from employment, who fails to report Prohibited Conduct to the Title IX Coordinator. *(If you do not know whether you are a Responsible Employee, please check with ECSU's Title IX Office.)*

Responsible Employees will safeguard an individual's privacy, but are required by the University to share a report of Sex or Gender Based Harassment, Interpersonal Violence, or Stalking (including the known details of the incident and the names of the parties) with the Title IX Coordinator. It is important to understand that any faculty or staff designated as a Responsible Employee under this Policy are required to share a report of Sex or Gender-Based Harassment, Interpersonal Violence, or Stalking with the Title IX Coordinator. The Title IX Coordinator will conduct an initial assessment of the incident or alleged behavior, consider the Complainant's desired course of action, and the necessity for any interim measures or accommodations to protect the safety of the Complainant, Respondent, and community.

The Title IX Coordinator will take steps, either directly with the Complainant or through a Responsible Employee, to provide information about the University's grievance process, available health and advocacy resources, and options for criminal reporting. Faculty and staff who are statutorily prohibited from reporting such information are exempt from these requirements, including licensed mental and medical health-care professionals (i.e. Licensed Counselors or Medical Doctor).

**VII. Title IX Complaint Process**

**A. University’s Obligation Under Title IX**

Before starting an investigation the University’s Title IX Office will inform the Complainant of their rights, the investigation process, and obtain consent from the Complainant acknowledging that they wish to proceed with an investigation. If the Complainant does not wish to pursue a resolution and/or requests that the complaint remain confidential, the Title IX Investigator Coordinator shall inform the Complainant that the University is under an obligation to investigate and take reasonable action in response to the complaint; thus the University cannot ensure confidentiality as it proceeds to investigate the matter. If the Complainant insists that their name not be disclosed to the Respondent, the University's ability to respond to the incident may be limited. In such a case, the Title IX Investigator Coordinator shall evaluate the request(s) that the complaint not be adjudicated or remain confidential in the context of the University's commitment to provide a reasonably safe and non-discriminatory
environment for all students. In order to make such an evaluation, the Title IX Investigator Coordinator may weigh the Complainant's request(s) against the following factors:

i. The seriousness and severity of the alleged Prohibited Conduct;
ii. The Complainant's age (minority status);
iii. Whether there have been other complaints of Prohibited Conduct against the Respondent;
iv. Whether a power relationship exists;
v. Whether the alleged incident was isolated or alleged to have occurred more than once;
vi. The Respondent's right to receive information about the allegation if the information is maintained by the University as an "education record" under FERPA; and
vii. The applicability of any laws mandating disclosure.

Complaints under this policy may be subject to a mediation proceeding, only if the Title IX Coordinator deems it to be appropriate and only with the full consent of both parties. No party will ever be pressured, coerced or required to participate in mediation under this policy.

B. Investigation and Standard of Proof

Once the Title IX Coordinator has made the determination that the complaint will proceed, the Title IX Coordinator and/or Investigator shall begin the investigation with written notification to the Complainant and Respondent with information regarding the allegation(s), investigation process, and possible sanction(s). Investigations shall be conducted in a timely manner unless there are mitigating circumstances in which case the Complainant and Respondent shall be notified, provided an explanation, and the estimated amount of additional time required. The Title IX Investigator and/or Coordinator shall be authorized to interview the Complainant, the Respondent, and any witnesses. The investigation shall also include a review of relevant documentary evidence. Meetings with the parties and witnesses shall be conducted individually and shall not take the form of a hearing. Both parties shall be provided with the opportunity to present relevant witnesses and other evidence to the Title IX Investigator and/or Coordinator to ensure a thorough investigation.

At the conclusion of the investigation, the Investigator and/or Coordinator will prepare a draft investigation report summarizing the information gathered and outlining the contested and uncontested information. The draft investigation report will not include any findings. The Complainant and Respondent will have an opportunity to review the draft investigation report; meet with the Investigator and/or Coordinator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator and/or Coordinator to pursue; and submit any further questions that they believe should be directed by the Investigator and/or Coordinator to the other party or to any witness. The Investigator will designate a
reasonable time for this review and response by the parties, not to exceed five (5) business days.

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator and/or Coordinator, within five (5) business days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Title IX Investigator and/or Coordinator will prepare a final investigation report, which will include findings of fact, as well as a recommendation as to whether there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy or not.

Upon review of the written report, the Title IX Coordinator may return the report back to the Investigator for further investigation, if he/she deems necessary. Once the report is complete and final, the Respondent and Complainant will receive written notice simultaneously that the investigation is complete and whether or not there was a policy violation based on the preponderance of evidence. If there is a finding of a policy violation,

i. When the Respondent is faculty or staff, the report will be forwarded to the Director of Human Resources, or their designee, for a determination of disposition pursuant to applicable University policies pertaining to faculty and staff;

ii. When the Respondent is a student, the report will be forwarded to the Dean of Students for a determination appropriate sanction(s).

C. Finding of a Policy Violation (Student)
If the sanction and the policy violation, as outlined in the notice, is agreed upon by both parties, the complaint shall be considered closed.

Either party has the option to reject the sanction and/or finding of a Policy violation and request a hearing before a Title IX Hearing Board. Within three (3) business days from the Notice of Outcome, either the Complainant or the Respondent may submit a written request to the Dean of Students objecting to the proposed sanction(s) and request a hearing to determine the appropriateness of the sanction, Policy violation, or both. The notice requesting a hearing must clearly state whether the Respondent or Complainant is challenging the sanction, the finding of a Policy violation, or both. The Dean of Students shall forward the written notice to the Chair of the Title IX Hearing Board to schedule a hearing.

D. Finding of a Policy Violation (Employee)
If there is a finding that a violation occurred, the Director of Human Resources or their designee, in consultation with the appropriate manager, shall determine an appropriate sanction and notify, in writing, the Complainant and Respondent.
E. Title IX Hearing Board (Student)
In consultation with the Title IX Coordinator, the Dean of Students or his/her designee will convene a Title IX Hearing Board ("Hearing Board") once a request by either party is made in writing. A Hearing Board will be comprised of at least three (3) individuals, selected by the Chancellor or their designee, from a pool of trained Board members. Any individual designated by the University to serve on a Hearing Board must have sufficient training and experience to serve in this capacity. Board members may include University faculty or staff, an outside expert from the surrounding community, or a member of another constituent institution or agency of the University of North Carolina system. University students, the Dean of Students, and the Director of Human Resources (in a case involving faculty and staff) cannot serve as a panelist. A Hearing Board will select a member to serve as Chair. The Chair is responsible for signing all documents and communicating on behalf of the Board.

Identification of members of the Hearing Board will be provided to the Complainant and Respondent via the Notice of Outcome. Both parties have the ability to challenge a Hearing Board member on the basis of actual conflict, bias, or lack of impartiality. The request must be submitted in writing and must clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. All objections must be raised at least five (5) business days prior to the commencement of the hearing. Failure to object prior to the hearing will forfeit ones’ ability to appeal the outcome based upon perceived or actual bias.

F. Hearing Board Procedure (Student)
A hearing is an opportunity for the parties to address trained faculty and staff that sit on a Hearing Board, in person, about the findings as determined by the Title IX Coordinator and reviewed by the Dean of Students. The date, time, and location will be listed on the Notice of Outcome, when appropriate. The hearing may not be scheduled for at least ten (10) business days after the student receives notice of the hearing date, unless the student agrees to an earlier hearing date. Reasonable extensions of time for either party to prepare for the hearing should be allowed.

Each party may address any information compiled in the Investigation Report by the Title IX Investigator and any other statements or evidence. Each party has the opportunity to be heard, to present witnesses for the Hearing Board's consideration, and to respond to any questions of the Hearing Board. Parties may not directly question each other or any witness. Parties may proffer questions for the Hearing Board, who may choose to pose appropriate and relevant questions to the Investigator, the parties, or witnesses. If proffered questions are determined not appropriate or relevant, the Chair of the Hearing Board must state the reason for the record. A typical hearing may include: (a) brief opening remarks by the Complainant or Respondent; (b) questions posed by the Hearing Board to the Title IX Coordinator, Dean of Students, Investigator, Complainant, Respondent, and witnesses; (c) testimony by the Title IX Coordinator, Dean of Students, Investigator, Complainant, Respondent, and witnesses; (d) Follow-up questions by the Hearing Board; and (e) brief concluding remarks by the Complainant and Respondent. The Chair of the Hearing Board has the discretion to determine the specific Hearing
format as circumstances may dictate. A transcript or other record of the hearing will be prepared. Deliberation will not be recorded. The institution is responsible for costs associated with obtaining a record of the hearing. Hearings are closed to the public.

G. Hearing Participation by Parties, Investigators, Witnesses, and Advisors (Student)

i. Complainant and Respondent
Both the Complainant and Respondent have a right to be present at the hearing. Either party may request alternative methods for participating in the hearing that do not require physical proximity to the other party, including participating through electronic means. This request should be submitted to the Hearing Board Chair at least three (3) business days prior to the hearing. If, after being notified of the date, time, and location of the hearing, either party is not in attendance or no alternative methods of participation have been requested the hearing may proceed and applicable sanctions may be imposed. Neither party is required to participate in the hearing in order for the Hearing Board to proceed in its review and for a final decision to be made by the Hearing Board.

ii. Witnesses, Investigator(s), and Other Relevant Parties
The Hearing Board may request the presence of the Investigator or any other witness or relevant party it deems necessary. The Complainant and Respondent may also request the presence of any witness they deem relevant to the determination by the Hearing Board. Students wishing to request witnesses are required to submit a witness list 10 of days in advance of the hearing. The Hearing Board has absolute discretion to determine which witnesses are relevant to its determination and may decline to hear from witnesses where it concludes that the information is not necessary for its review. The Hearing Board must note for the record why it declined to hear from a witness or other relevant party.

iii. Attorney - Non-Attorney Advisor
During the hearing, each party may be accompanied by only one advisor. Advisors may be attorneys or non-attorney serving as advocates for either party. The advisor may advise, assist, and accompany the Respondent and Complainant in preparation for any meetings or hearings and may fully participate in such procedures to the extent, and in the same manner, afforded to the student. Advisors may not be witnesses in the matter at hand, and they may not provide direct information or testimony at any point in the process. The University reserves the right to remove any individual whose actions are disruptive to the proceedings.

VIII. Determination, Sanction, and Notice of Outcome

A. Determination
Where either of the parties have contested the recommended finding(s) of responsibility by the Dean of Students, the members of the Hearing Board will, at the conclusion of the Hearing, determine by majority vote a finding of responsible or not responsible as it
relates to whether or not a Policy violation has occurred. This determination will be
made by a preponderance of the evidence; if said determination is responsible sanctions
will be issued as appropriate.

B. Sanction
A sanction is a tool designed to address policy violations. The Policy prohibits a broad
range of prohibited conduct, all of which is serious in nature. Sanctions are reviewed on
an individual basis based on the unique facts and circumstances as found by the Dean of
Students and/or Hearing Board. In keeping with the University's commitment to foster an
environment that is safe, inclusive, and free from discrimination and harassment, this
Policy provides the Dean of Students and Hearing Board with wide latitude in the
imposition of sanctions tailored to the facts and circumstances of the conduct, the effect
of the conduct on the Complainant and University community, and accountability of the
Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct,
prevent its recurrence, and remedy its effects, while supporting the University's
educational mission and legal obligations. Sanctions may include educational,
restorative, rehabilitative, monetary, and punitive components. Some conduct, however,
is so egregious in nature, harmful to the individuals involved, or so pervasive to the
educational process that it requires severe sanctions, including suspension or expulsion
from the University. All sanctions shall comply with the UNC Code and UNC Policy
Manual.

In determining the appropriate sanction(s), the Dean of Students and Hearing Board will
be guided by a number of considerations, including:

i. The severity, persistence, or pervasiveness of the Prohibited
   Conduct;
ii. The nature or violence of the Prohibited Conduct;
iii. The effect of the Prohibited Conduct on the Complainant;
iv. The effect of the Prohibited Conduct within the University
   community
v. Prior misconduct by the Respondent, including the
   Respondent's relevant prior disciplinary history, at the
   University or elsewhere, and any criminal convictions;
vi. Whether the Respondent has accepted responsibility for the
   Prohibited Conduct;

vii. The maintenance of a safe, nondiscriminatory, and respectful
    environment conducive to learning; and
viii. Any other mitigating, aggravating, or compelling factors.

Any of the following sanctions, including those noted in the ECSU Student Code of
Conduct, may be imposed when any student is found responsible for a violation of
University Policy:

i. Formal Written Warning: A notice to ensure that the student fully understands the
   policy and is expected to cease from further violations.
ii. Disciplinary Probation: Sanction imposed for a designated period of time. Further violation of Prohibited Conduct may result in further disciplinary action up to, and including, disciplinary suspension or disciplinary expulsion. Periodic probationary meetings may also be required. All assigned conditions of sanction(s) must be completed prior to the conclusion of disciplinary probation; otherwise, the disciplinary probation will remain in effect.

iii. Residence Hall Expulsion: Permanent separation of the student from the residence halls. Notification will be sent to the Office of the Registrar, Office of Financial Aid and Scholarships, and Division of Academic Affairs.

iv. Disciplinary Suspension: Separation of the student from ECSU for a specific period of time, after which the student is eligible to return. The Dean of Students, or their designee, must make the final administrative determination in all suspension cases. The delegation may be to a student committee or a student, faculty, and staff committee. Conditions for readmission may be specified. At the discretion of the Dean of Students, or designee, a partial or comprehensive University trespass order will be placed in effect for the period of the suspension. A student must petition for reenrollment through the Office of the Dean of Students prior to return. Reenrollment will be determined by the Dean of Students. Notification will be sent to the Office of the Registrar, Office of Financial Aid and Scholarships, and Division of Academic Affairs.

v. Disciplinary Expulsion: Permanent separation of the student from the University. At the discretion of the Dean of Students or designee, a University trespass order goes into effect with the dismissal. Notification will be sent to the Office of the Registrar, Office of Financial Aid and Scholarships, Division of Academic Affairs - Office of the Assistant Vice Chancellor for Academic Affairs, and University Police. Expulsion precludes matriculation at any UNC constituent institution.

Outcomes applied subsequent to a student conduct hearing go into effect immediately upon receipt of notice of those said outcomes, whether notice was transmitted electronically or via hard copy. If a reasonable attempt has been made to notify the Complainant or Respondent of the outcome and associated sanction (email, phone, and/or in person) but the Parties have not indicated receipt of notice, the outcome and associated sanction will still go into effect. The Parties are required to comply with the imposed outcomes until such time as they are complete or are altered by the resolution of the appeal process.

C. Notice of Outcome
The Hearing Board decision must be reached within twenty-five (25) business days after the hearing is completed. The Hearing Board Chair will simultaneously issue a written decision, referred to as the Notice of Outcome, to both the Complainant and Respondent, copying the Title IX Coordinator, within twenty-five (25) business days following the Hearing Board decision (or such longer time as the Chair may for good cause determine).
The Notice of Outcome will outline the violation(s) of the Policy for which the Respondent was found responsible or not responsible, as supported by the testimony, investigation report, and other evidence presented during hearing. The Notice of Outcome may also identify protective measures implemented with respect to the Respondent or the broader University community. The Notice of Outcome will not disclose any interim measures provided to the Complainant.

D. Appeal

Either party may appeal the Hearing Board's decision to the Vice Chancellor of Student Affairs (Appeals Officer) within five (5) business days of the receipt of the Hearing Board's decision via the Notice of Outcome. The appeal must be submitted in writing to the Vice Chancellor of Student Affairs. The appeal shall consist of a concise and complete written statement outlining the ground(s) for appeal as listed below and all relevant information to support the basis for the appeal. Suggested appeal guidelines: Maximum 5 pages, Times New Roman 12-point font, double spaced, and 1 inch margins. Receipt of the appeal will be acknowledged in writing.

Grounds for appeal include the following:

i. Demonstration of a significant procedural error;
ii. The availability of compelling new evidence; or
iii. Demonstration that the rights of the Complainant or Respondent were violated according to this Policy.

Each party will be given the opportunity to review the written appeal submitted and respond in writing to the Appeals Officer. Any response by the opposing party must be submitted to the Appeals Officer within three (3) business days from receipt of the appeal. If both parties file an appeal, the appeals documents from each party will be considered together in one appeal review process.

In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the outcome will be presumed to have been decided reasonably and appropriately. Appeals are not intended to be a rehearing of the matter. Appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. The Appeals Officer should be deferential to the original Hearing Board, making changes to sanction(s) only where there is clear error.

The Appeals Officer shall notify both parties of the final decision within ten (10) calendar days from the date the decision is made. A decision by the Appeals Officer is final. No further appeals are allowed and this decision is final, unless expressly permitted by The Code of the University of North Carolina.
IX. Records, Training, and Prevention

A. Clery Act Reporting
Under the Clery Act, ECSU is required to include statistics about certain offenses in its Annual Safety and Security Report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires ECSU to issue timely warnings to the University community about certain crimes that have been reported and may continue to pose a serious or continuing threat to students and employees. Consistent with the Clery Act, ECSU withholds the names and other personally identifying information of the Reporting Party when issuing timely warnings to the University community.

B. False Claims
An individual who knowingly makes false allegations or who knowingly provides false information in a Prohibited Conduct investigation or proceeding shall be subject to disciplinary action.

C. Records
The Title IX Coordinator shall maintain all records related to investigations into allegations of Prohibited Conduct until the process has been concluded. The Dean of Students shall maintain all records related to the formal (judicial) process, which may include written findings of facts, transcripts, or audio recordings of hearings.

D. Campus Training and Education
ECSU is committed to increasing the awareness and prevention of violence. All incoming students and new employees shall be provided with programming and strategies intended to prevent rape, acquaintance rape, sexual assault, domestic violence, bystander intervention training, dating violence, and stalking as reasonably as possible before it occurs through the changing of social norms and other approaches; ECSU will issue a clear statement that the University prohibits such acts, their definitions, the definition of consent, options for bystander intervention, information about risk reduction, and our policies and procedures for responding to these incidents. Ongoing prevention and awareness campaigns are also offered throughout the year. These programs may include:

i. Poster campaign
ii. Think About It
iii. New & Transfer Student Orientation
iv. New faculty and staff orientation
v. Training for students, faculty, and staff
vi. Trainings for Division of Student Affairs student employees
vii. Vikings Against Violence Website
viii. Bystander intervention training
viii. Law enforcement and Student Conduct judicial board trainings on sexual violence

E. External Complaints
As a student or employee, if you filed a complaint with the University and believe the University's response was inadequate, you may file a complaint with the Equal Employment Opportunity Commission, or the Department of Education at:

United States Department of Education
Office for Civil Rights
(800) 421-3481
Email: ocr@ed.gov

U.S. Equal Employment Opportunity Commission
(800) 669-4000
Email: info@eeoc.gov