

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

These policies and procedures are implemented on interim basis for renewable six-month intervals. Should a court strike down, either temporarily or permanently, any terms or provisions of these policies and procedures, ECSU reserves the right to make immediate modifications to the policies and procedures that take effect upon publication on our website. Further, should any court strike any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, ECSU reserves the right to withdraw these interim policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.

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 Workplace Violence Policy #200.1.7

This policy is maintained by the Title IX Coordinator and the Vice Chancellor for Student Affairs. The University will review and update this policy, as appropriate, at least every five (5) years. The University will evaluate, among other things, any changes in legal requirements, existing University resources, and the resolution of cases from the preceding year.

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I. Preamble

Elizabeth City State 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. 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").

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 and Pregnancy /Parenting Students. 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.

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.

II. Definitions

A. Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment, or on whose behalf the Title IX Coordinator has filed a formal complaint.

B. Reporting Party

A person who informs the Title IX Office and/or police about any allegation of sexual misconduct (Complainant may also be the Reporting Party.)

C. Respondent

An individual who has been reported to have engaged in conduct that could constitute sexual harassment.

D. Third Party

A person who is not a University student or employee.

E. Preponderance of the Evidence

More likely than not that a policy violation occurred.

F. False Complaints or False Information

Knowingly or recklessly alleging a complaint of discrimination, harassment or related retaliation where no such conduct exists or intentionally providing false information during the course of an investigation.

G. Discrimination

Occurs when an individual suffers an adverse consequence, such as failure to be hired or promoted, denial of admission to an academic program, etc., on the basis of her/his Protected Class.

H. Harassment

Verbal or physical conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

I. Related Retaliation

Retaliation means any adverse action taken against a person for making a good faith report of Harassment or Discrimination or participating in any proceeding related to a claim of Harassment or Discrimination. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of Prohibited Conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct. Retaliation in all matters is prohibited.

J. Educational Program or Activity

Includes locations, events, or circumstances over which the university exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university. The term educational program or activity does not apply beyond the United States, including with respect to study abroad programs.

K. Live Hearing

A live hearing is a required element of the grievance procedure. The hearing may be held in one location or may be held virtually. Each live hearing must be recorded or transcribed, with the recording or transcription available to both parties for review.

L. Investigator

During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet separately with the Reporting Party, the Respondent, and third-party witnesses, and will gather other relevant and available evidence and information, including,

without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party). If law enforcement is involved, the Investigator may coordinate efforts with law enforcement to conduct an efficient investigation while limiting the burden on the parties.

M. Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment to the university's Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the university.

N. Draft Investigation Report

At the conclusion of the investigation, the Investigator 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 the Respondent will have an opportunity to review the Draft Investigation Report; meet with the Investigator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator to pursue; and submit any further questions that they believe should be directed by the Investigator 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 ten (10) business. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Dean of Students Office, Office of the Provost, or Human Resources.

O. Final Investigation Report

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within ten (10) 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 Investigator, alone or in coordination with the Office of the Provost, Human Resources or the Dean of Students Office, will prepare a Final Investigation Report to both parties before a live hearing is held to decide whether the Respondent is ultimately responsible for the alleged policy violations.

P. Decision Maker

A Decision Maker is one designated individual or a small panel not to include the Title IX Coordinator or Investigators, responsible for determining if the Respondent is responsible or not responsible for violating the university policy.

Q. Role of the Title IX Coordinator

Title IX of the Education Amendments Act of 1972 states: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Accordingly, the Title IX Coordinator is charged with monitoring the University's compliance with Title IX; ensuring appropriate education and training; coordinating the University's review, response, and resolution of all reports under this policy; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to meet with any Student, Employee, or Third Party to discuss this policy or the accompanying procedures. The University has also designated Deputy Title IX Coordinators who may assist the Title IX Coordinator in the discharge of these responsibilities. The University may designate additional staff to assist the Title IX Coordinator with his or her duties. All staff with responsibilities related to compliance with Title IX will receive appropriate training to discharge their responsibilities.

Definitions of Prohibited Conduct

Conduct under this Policy is prohibited regardless of the sex, sexual orientation and/ or gender identity/expression of the Complainant and/or Respondent.

- 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 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:** Means conduct on the basis of sex that satisfies one or more of the following:
- i. An employee of ECSU conditioning the provision of an aid, benefit or service of the university on an individual's participation in unwelcome sexual conduct;
 - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity
 - iii. Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

- D. Sexual Assault:** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
- E. 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.
- F. Domestic Violence:** Crimes of violence committed by a current or former spouse or intimate partner of the victim.
- G. Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- H. Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.
- I. Sexual Misconduct:** Attempted or completed intercourse or penetration (anal, oral, or vaginal), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective consent. This may include, but not be limited to vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

J. Sexual Touching: (including disrobing or exposure) by a man or a woman upon a man or a woman, without effective consent which may include, but not be limited to, any contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch any of these body parts, when such touching would be reasonably and objectively offensive.

K. Retaliation: 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 all 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 all parties. 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.

One should be cautious before engaging in Sexual Contact or Sexual Intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether Affirmative Consent has been sought or given. If one has doubt about either party's level of intoxication, forego all sexual activity. Being impaired by alcohol or other drugs is no defense to any violation of this policy.

- N. Complicity:** Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.
- O. 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.
- P. 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 his or her 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.

III. Applicable Procedures

The specific procedures for reporting, investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent's relationship to the University (Student, Employee, or Third Party). Each set of procedures referenced below is guided by the same principles of fairness and respect for Reporting and Responding Parties. "Reporting Party" means the Student, Employee or Third Party who presents as the victim of any Prohibited Conduct under this policy, regardless of whether that person makes a report or seeks action under this policy. "Respondent" means the Student, Employee or Third Party who has been accused of violating this policy. The procedures referenced below provide for prompt and equitable response to reports of Prohibited Conduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and

evidence and to view the information that will be used determining whether a policy violation has occurred. The University applies the Preponderance of the Evidence standard when determining whether this policy has been violated. “Preponderance of the Evidence” means that it is more likely than not that a policy violation occurred.

IV. Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The University also is committed to providing assistance to help Students, Employees and Third Parties make informed choices. With respect to any report under this policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. Privacy and confidentiality have distinct meanings under this policy:

Privacy means that information related to a report of Prohibited Conduct will be shared with a limited circle of University Employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the University’s response to reports of Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA policy. The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA. Access to an Employee’s personnel records is regulated by North Carolina law, including, but not limited to N.C. Gen. Stat. §126-1 et seq. and N.C. Gen. Stat. §132-1 et seq.

Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under North Carolina law. The University has designated individuals who have the ability to have privileged communications as “Confidential Employees,” as defined in section H below. When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. Generally, information may be disclosed when: a) the individual gives written consent for its disclosure; b) if someone is clearly likely to do physical harm to yourself or another person in the near future; c) if information is shared about currently occurring abuse or neglect of a child or dependent adult; or d) if ordered to do so by a judge as part of judicial proceed.

V. Resources and Reporting Options

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 Elizabeth City State University's Law Enforcement Department ("Campus Police") means that the report will be shared with the Title IX Coordinator. Making a report to any (whoever your mandatory reporters are) Staff or Faculty member means that the report will be shared with the Title IX Coordinator. The Title IX Coordinator or their designee will communicate with the Complainant to provide resources and support and to identify the appropriate action to respond to the report as outlined in this Policy.

Title IX Coordinator
130 Griffin Hall
252-335-3907
252-368-6406
titleixcoordinator@ecsu.edu

In addition, many University employees, designated as Responsible Employees, are required to share information with the Title IX Coordinator and/or ECSU 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.

1. 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
130 Griffin Hall
252-335-3907 or 252-368-6406
titleixcoordinator@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. There is no time limit by which a Complainant must file a formal written complaint. In cases indicating pattern, predation, threats, use of weapons, and/or violence, the University may be unable to honor the request and an investigation will proceed. 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 supportive 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. Information will only be shared as necessary with investigators, witnesses, and the Respondent.

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: Safe ECSU Website. 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.

ECSU must dismiss a complaint if the allegation does not meet the criteria set forth in the definition of sexual harassment. Dismissal of the complaint does not preclude action under ECSU's Student Code of Conduct.

2. 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.

University Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders. The University will assist Reporting Parties in notifying law enforcement if they choose to do so. The Title IX Office's investigation is conducted separately from University Police, although both offices may work closely together.

There is no time limit for reporting Prohibited Conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as

evidence may erode, memories may fade, and Responding Parties may no longer be affiliated with the University. If the Responding Party is no longer a Student or an Employee, the University will provide reasonably appropriate remedial measures, assist the Reporting Party in identifying external reporting options, take reasonable steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

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 University Police
142 Thomas Jenkins Bldg.
252-335-3555
universitypolice@ecsuh.edu

3. 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.

4. 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).

B. Resources

Resources: Information, support, and resources are available to all individuals/parties.

ECSU Resources for Students and Employees

- 1. Confidential Resources-**Consistent with the definition of Confidential Employees and licensed community professionals, there are a number of resources within the University and Pasquotank County community where Students and Employees can obtain confidential, trauma-informed counseling and support.

Students can obtain Confidential resources / services by contacting Student Health Services, 300 Griffin Hall (252) 335-3267 and/or Counseling Center, 302 Griffin Hall (252) 335-3267. For a complete list of University and community-based confidential resources for Students, see the Student Resource Guide (Appendix C).

Employees can obtain confidential resources/services through the Department of Human Resources or the Employee Assistance Program (ComPsych 1-866-511-3365).

For a complete list of University and community-based confidential resources for Employees, see the Employee Resource Guide (Appendix F).

Both students and employees, along with visitors, contractors, and third parties may obtain confidential resources / services through the following Community resources: Albemarle Hopeline 24 hour hotline / advocacy services (252) 338-3011.

2. Non-Confidential Resources

Non-confidential resources / services by contacting the Dean of Students, 400 Griffin Hall (252)335-3562 and/or the Title IX Coordinator, 130 Griffin Hall (252)335-3907. Any individual (party) may obtain information from the Title IX Coordinator about various non-confidential and confidential resources available on campus, within the local community, and other external agencies and organizations.

3. Off-Campus Resources for All Individuals

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

4. Support Options for the Complainant and Respondent

The Title IX Coordinator, in conjunction 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 Respondent restore the Complainant's and Respondent's safety and well-being, and maximize the Complainant's and Respondent's educational and employment opportunities.

The University will consider the appropriateness of support, including continued supportive measures, and accommodations to assure the safety and well-being of the

parties throughout the process. (Supportive 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 supportive measures or implementing additional measures tailored to achieve the goals of this Policy. Examples of supportive 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.

5. Supportive 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 supportive 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 supportive measure(s).

VI. 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 by the signing of a formal written complaint

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. Informal resolutions may not occur when the Complainant is a student and the Respondent is an employee.

B. Investigation and Standard of Proof

Once there has been a 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 the following information for sufficient time to prepare for interviews:

- i. information regarding the allegation(s);
- ii. the identities of the parties involved;
- iii. the alleged conduct;
- iv. the date of the alleged incident;
- v. the investigation process and;
- vi. 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 Respondent is presumed not responsible for violating university policy until the completion of the investigation and a decision is rendered. A decision on the violation of university policy will be based on the evidentiary standard of the preponderance of evidence. ECSU may not restrict either party from discussing allegations under investigation or gathering and presenting relevant evidence. The burden of collecting evidence and proving a violation of policy is the responsibility of the university, and not the parties involved.

C. Live Hearings

ECSU must provide a live hearing that may be held in one location. At the request of a party, or at the institution's discretion, the live hearing may be held virtually, in real time. The hearing must be recorded or transcribed, with the recording or transcription available to both parties for inspection and review.

An advisor or an attorney must conduct the cross-examination of the Complainant and Respondent. If either party does not have an advisor, ECSU must provide an advisor at the university's discretion free of charge. The Complainant or Respondent may not conduct cross-examinations. If the Complainant or Respondent refuses to submit to cross-examination, the Decision Maker may not rely on any statement of that individual to determine responsibility of policy violation.

The Decision Maker, which can be neither the Title IX Coordinator nor the Investigator, must issue a written determination of the findings from the live hearing, which shall include if the Respondent is responsible for violating ECSU's policy.

D. Sanctions

A conduct sanction is an educational tool designed to address violations of Prohibited Conduct.

Student Sanctions

Upon a final finding of responsibility of violating university policy, one or more sanctions may be imposed for each violation. Failure to complete any assigned sanction is a separate violation of the Student Code of Conduct. Sanctions relate to the nature and context of the policy violation as well as the developmental needs of the student found responsible. Progressive sanctions are necessary when a student is found responsible for repeated or similar violation of misconduct.

The following sanctions imposed upon students are not reported to external agencies as a university disciplinary action, unless required by law:

- i. **Disciplinary Warning**-An official reprimand that is formally communicated by a letter to the student, group, organization –its advisers and members, giving notice and warning that any subsequent violation will carry more serious sanctions.
- ii. **Disciplinary Probation**-Permits continuation of the relationship between the student Respondent and the university; a specified period of time, a minimum of one semester, requiring the Respondent to avoid a recurrence of any conduct that violates University policy that may result in additional sanctions including but not limited to suspension or expulsion. Probation is a status in which the student Respondent is deemed not to be in good conduct standing with the University for a defined period of time. **The sanction of probation may prohibit graduation until the period of probation has ended and the student has complied with all requirements.**

Any student, who is on “disciplinary probation”, will not be allowed to run or hold office, participate in Greek organization intake activities and/or participate in step shows and other activities, or play on athletic teams during the term of the probation. This restriction applies but is not limited to members of the Student Government Association, athletes, resident advisors, Viking Voyage Leaders, members of the band and members of fraternities and sororities. This policy also includes any student who represents the University in an ambassador capacity must relinquish his or her responsibilities during the probationary period.

- iii. **Educational Experience**-Learning opportunities, including but not limited to, community service, drug and alcohol education, and written papers.

- iv. Removal of Privileges-Loss of access to University services, activities, facilities or registration privileges which may impact participation in extracurricular activities, residence in University housing, University employment, Honors College, leadership within student.
- v. Restitution-Appropriate reimbursement for a wrongful or negligent act which resulted in loss, damage, or actual expenses occurred by the University.
- vi. Disciplinary Hold-The Dean of Students (or designee) may issue a Disciplinary Hold limiting activity on a Student's University records and prevents the Student from completing the following University processes: pre-registration, registration, drop/add, withdrawal, graduation, receiving official transcripts, etc. A Disciplinary Hold may be applied to a Student's account to facilitate participation in the Student conduct process; to facilitate completion of sanctions.
- vii. No Contact Order-The Dean of Students (or designee) may issue a University temporary no-contact order pending the outcome of any conduct proceeding or investigation. The Respondent is instructed to avoid direct or indirect contact with an identified individual or group. This includes but is not limited to contact in person, through electronic means, or through a third party.
- viii. Emergency Removal-Emergency Removal shall be exercised when there is reasonable cause to believe that the student Respondent's alleged act of misconduct is of such a serious nature that his or her continued presence on campus may pose a significant threat to the health and safety of others, and/or when the student's behavior(s) significantly disrupts the educational pursuits and/or living environment of others. The university shall conduct a five-step process to evaluate the necessity of an emergency removal. An emergency removal must not effectuate, in any way, a pre-judging of the allegation against the Respondent, who is entitled to presumption of non-responsibility pending the completion of the grievance process.
 - a. The student Respondent will be issued written notice of emergency removal. Upon notice, the student Respondent must leave campus, not to return unless in compliance with explicit instruction or directive in notice.
 - b. While operating under an Emergency Removal, the student shall exit the premises of University property and not reenter any such property unless in compliance with explicit instruction or directive outlined in the Notice of Emergency Removal. Non-compliance will result in arrest for trespass and the student may be subject to additional actions in ECSU's disciplinary process.
 - c. The student Respondent may appeal within five (5) business days of issuing the Emergency Removal by submitting a written request to appeal (email

- is an acceptable form of formal written notice). The Emergency Removal will remain in effect pending the outcome of the appeal meeting.
- d. If the student Respondent does not appeal the emergency removal, or if the appeal is denied, the regular student conduct process shall proceed on the normal schedule.
 - e. If the appeal is approved, the student Respondent will be notified in writing of the decision to uphold, modify, or terminate the Emergency Removal within five (5) days of receiving the written appeal.
- ix. Deferred Suspension-Permits continuation of the relationship between the student Respondent and the University; a specified period of time; a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the University Policy. Subsequent violations of University policy during the term of a deferred suspension will result in a full suspension.
 - x. Suspension-The removal of a student Respondent for a defined period of time, for a maximum of six consecutive semesters, during which a student loses all University privileges, which generally includes access to facilities, programs, classes, and premises. Consistent with the University's continuous enrollment policy, all students who attend ECSU for one or more successive semesters, must submit an application for readmission.
 - xi. Expulsion-The permanent dismissal from the University, administrative withdrawal from classes and loss of all University privileges. This sanction implies permanent separation from Elizabeth City State University and any institution within the University of North Carolina System, and will likely prevent admission to any other institution of higher education. Student Respondents separated from the University by expulsion for reasons, which represent a threat to persons, or property may not enter University premises or university-related premises without securing prior approval from the Office of the Dean of Students.

Employee Disciplinary Actions

- i. Written Warning- All written warnings shall inform the employee in writing that this is a written warning, and inform the employee of the specific issues that are the basis for the warning.
- ii. Emergency Removal-The university may remove a Respondent on an emergency basis whether a grievance process is underway or not. There must be an emergency situation arising from alleged conduct that could constitute sexual harassment as defined above. An emergency removal is not limited to instances where the Complainant has reported an alleged sexual assault or rape, but could also be justified to address alleged severe, pervasive and objectively offensive verbal or online harassment. The university shall conduct a five-step

process to evaluate the necessity of an emergency removal. An emergency removal must not effectuate, in any way, a pre-judging of the allegation against the Respondent, who is entitled to presumption of non-responsibility pending the completion of the grievance process.

- iii. Employee Administrative Leave-Administrative leave may only begin after a formal complaint has been filed against the Respondent and as the grievance process begins. Administrative leave is meant for non-emergency situations.
- iv. Disciplinary Suspension Without Pay- An employee may be suspended without pay for disciplinary purposes relating to any form of unacceptable personal conduct without any prior disciplinary action. Prior to placing an employee on disciplinary suspension without pay, a management representative shall conduct a pre-disciplinary conference with the employee.
- v. Demotion- Any employee may be demoted as a disciplinary measure. Demotion may be made based on unacceptable personal conduct without any prior disciplinary action. Prior to demoting an employee, a management representative shall conduct a pre-disciplinary conference with the employee.
- vi. Dismissal- Dismissal may be a result of unacceptable personal conduct. An employee may be dismissed for causes relating to any form of unacceptable personal conduct without any prior disciplinary action. Prior to dismissing an employee, a management representative shall conduct a pre-disciplinary conference with the employee.

E. Appeal

ECSU must provide equal access to appeal for the Complainant and the Respondent. For employees, the Title IX complaint resolution process is separate from the employee grievance procedure. The following are grounds for an appeal:

- i. Procedural irregularity that affected the outcome of the matter.
- ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- iii. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.
- iv. Additional grounds for appeal may be added provided they are available to all parties.

1. Appeal of Initial Dismissal of Title IX Complaint

In the event that the formal written complaint is initially dismissed as not falling within Title IX jurisdiction, the reporting party has the right to appeal. The reporting party may request an appeal to the Office of Title IX after notification of the decision to dismiss the complaint. The party must submit the Request to

Appeal Title IX Dismissal Complaint form to the Office of the Title IX within three (3) business days for prompt consideration. In the event the party is a student, the Assistant Dean of Students will hear and render a decision on the appeal complaint. In the event the Complainant is an employee, a designee in the Department of Human Resources will hear and render a decision on the appeal complaint.

2. Appeal of Written Determination by Decision Maker

Both parties have the right to appeal the finding within ten (10) business days upon receipt of the written determination notice. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals. Legitimate grounds for an appeal are confined to those instances described above.

- a. If the party is a student: The written appeal shall be submitted to the Office of the Assistant Dean of Students.
- b. If the party is a faculty or staff member: The written appeal shall be submitted to the Department of Human Resources.

If an appeal is granted, the appeal officer will notify the Title IX and Deputy Coordinators of the error or new evidence. In the event the party is a student, the Conduct Board, not to include the original Decision Maker, Title IX Coordinator or Investigator will conduct a hearing and render a new decision according to the evidence based upon the preponderance of evidence standard.

For SHRA and EHRA employees, if the appeal is granted, a hearing panel, not to include the original Decision Maker, Title IX Coordinator or Investigator will conduct an appeal hearing and render a new decision according to the evidence based on the preponderance of evidence standard. The written determination by the appeal-hearing panel shall constitute the final university decision and shall not enter the SHRA or EHRA Formal Grievance Procedure.

VII. Records, Training, and Prevention

A. Clery Act Reporting

Pursuant to the Clery Act¹, the university includes statistics about certain offenses in its annual 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.²The Clery Act also requires timely warnings to the

¹ 20 U.S.C. §1092(f)

² The Clery Act requires ECSU to alert the campus community to certain crimes in a manner that is timely and will aid in the prevention of similar crimes. Although Clery does not define “timely,” because the intent of a warning regarding a criminal incident(s) is to enable people to protect themselves this means that a warning should be issued as soon as the pertinent information is available. This is critical; it’s expected that even if ECSU doesn’t have all of the facts surrounding a criminal incident or incidents, a warning will be issued. A follow up will be issued with additional information as it becomes available. Please find Timely Warning Policy in Annual Security Report available here: https://www.ecsu.edu/documents/university-police/annual_safety_fire_report.pdf.

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, the university withholds the names and other personally identifying information of the Reporting Parties 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 to include investigations, hearings, informal resolutions, and other processes available for request by the Complainant and Respondent for a period of seven (7) years.

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
- ix. Law enforcement and Student Conduct judicial board trainings on sexual violence

Mandatory training is required for the Title IX Coordinator, Investigators, Decision Maker(s) and any person who facilitates an informal resolution process. All training materials not copyrighted or proprietary used for training shall be available on the university website.

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

APPENDIX A

PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEX AND GENDER BASED DISCRIMINATION AND HARASSMENT, INTERPERSONAL VIOLENCE AND STALKING

WHERE THE RESPONDENT IS A STUDENT

ECSU students, faculty, staff, visitors, or third parties who believe they are directly affected by the conduct of a University student may report the Prohibited Conduct to the University through the University Police, Dean of Students Office, or Title IX Office. This Appendix identifies the procedures the University follows when it receives a report alleging Prohibited Conduct. ECSU uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against University students found responsible for violating the Policy.

1. REPORTING

ECSU encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct involving a Student or Employee to immediately report the incident to the University through the following reporting options:

Office of Title IX
130 Griffin Hall
(252) 335-3907 or (252) 368-6406
titleixcoordinator@ecsu.edu

Dean of Students Office
400 Griffin Hall
(252) 335-3562

ECSU University Police
142 Thomas Jenkins Building
(252) 335-3266
Safe ECSU-<https://www.ecsu.edu/safe/>

A Complainant or Reporting Party may choose to make a report to the University to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the policy, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly.

ECSU also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. The following guides identify confidential resources, both on-and off-campus, and further explain options for reporting Prohibited Conduct to the University and to law enforcement.

Students may refer to Student Resource Guide (Appendix C)

Employees may refer to the Employee Resource Guide (Appendix D)

Third Parties/Visitors may contact the University's Title IX Coordinator

The Complainant is entitled to receive information, assistance and a broad range of support and interim measures regardless of whether he or she chooses to pursue criminal and/or University disciplinary resolution of Prohibited Conduct. The Student and Employee Resource Guides outline these resources and interim measures and describe how to request them.

2. EXPECTATIONS OF REPORTING AND RESPONDING PARTIES

Pursuant to these Procedures, the Complainant and Respondent Party can expect:

- a. Prompt and equitable resolution of allegations of Prohibited Conduct;
- b. Privacy in accordance with the Policy and legal requirements;
- c. Reasonably available interim measures, as described in these Procedures and in the applicable Resource Guide;
- d. Freedom of Retaliation for reporting Prohibited Conduct or participating in any proceeding under the Policy;
- e. The responsibility to refrain from Retaliation directed against any person making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- f. The responsibility to provide truthful information in connection with any report, investigation or resolution of Prohibited Conduct under the Policy or these Procedures;
- g. The opportunity to articulate concerns or issues about proceedings under the Policy and these Procedures;
- h. Timely notice of any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- i. The right to choose an attorney or non-attorney advocate, including the right to have an advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- j. Written notice of an investigation, including notice of potential policy violations and the nature of the alleged Prohibited Conduct;
- k. The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s);
- l. Timely and equal access to any information that will be used during resolution proceedings and related meetings;
- m. Reasonable time to prepare any response contemplated by these Procedures;
- n. Written notice of any extension of timeframes for good cause; and
- o. Written notice of the outcome of any formal resolution proceedings; including the determination of a Policy violation, and imposition of any sanction(s).

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed through the investigation process. Under the investigation process, responsibility for investigation and resolution of a complaint is assigned to the Office of Title IX in coordination with the Dean of Students Office.

3. PROCEDURES AND TIMEFRAMES

A. Filing a Complaint

ECSU encourages a student or employee who has a concern involving a student to bring a complaint as soon as reasonably possible to the Office of Title IX, Dean of Students Office or University Police, orally or in writing. However, there is no time limit for filing a complaint. A student may also bring their complaint to the appropriate administrator or supervisor, which may include a department chair, associate dean or other administrator.

B. Investigating a Complaint

i. Initial Notice

Any administrator or supervisor who receives notice of a student's complaint of alleged prohibited harassment, including sexual misconduct, or discrimination must notify the Title IX Coordinator, preferably immediately.,

ii. Conducting the Review

ECSU expects that an investigation will be performed and the Investigation Report submitted to the Title IX Coordinator and the designated Decision Maker within 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.

iii. Responding to Report and Notification to the Parties

The designated Decision Maker must issue written determination simultaneously to both parties notifying both parties of the conclusion of the investigation, the findings and appeal procedures.

iv. Administrative Responsibility

ECSU administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute Prohibited Conduct or receives a complaint from a University member alleging Prohibited Conduct, the administrator or supervisor must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute Prohibited Conduct is strongly encouraged to contact the Office of Title IX. Consistent with the policy, University administrators and supervisors or others identified as a responsible employee cannot assure confidentiality if they receive information about conduct that may constitute Prohibited Conduct.

v. Determination of Whether to Conduct an Investigation

The Office of Title IX will determine whether to proceed to an investigation based on its assessment of whether there is sufficient information to believe that a policy violation may have occurred. 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), date of alleged incident, investigation process, and possible sanction(s). The Respondent is presumed not responsible for the alleged conduct until a determination is made according to the University process. The Respondent may have an advisor/attorney and may inspect and review evidence. If the complaint does not meet the Title IX definition for Sexual Harassment, ECSU must dismiss the complaint. Dismissal does not preclude action under the University's Student Code of Conduct.

vi. Investigating the Complaint

The Title IX Coordinator/Investigator is expected to promptly investigate and submit a confidential Investigation Report to the designated Decision Maker or the Department of Human Resources, depending on the Respondent's affiliation with the University. The person(s) accused of Prohibited Conduct must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.

Both the Complainant and the Respondent will be given a copy of the policy and relevant procedures and also be given an explanation of the investigation process.

Both the Complainant and the Respondent may provide information relevant to the complaint, including the names of any witnesses to the Office of Title IX.

In determining whether the alleged Prohibited Conduct violates the Policy and what, if any, corrective action should be taken, the designated Decision Maker must consider the record as a whole, including the nature of the alleged Prohibited Conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that the policy has been violated.

vii. Report and Documentation

At the conclusion of the investigation, the Title IX Coordinator/Investigator 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 Title IX Coordinator/Investigator; and submit additional comments and information that is relevant to the investigation. The Complainant and Respondent will also have the opportunity to identify any additional witnesses or evidence for the Title IX Coordinator/Investigator to pursue. The Title IX Coordinator/Investigator will designate a reasonable time for this review and response by the parties, not to exceed ten (10) business days.

Unless there are significant additional investigative steps requested by the parties or identified by the Title IX Coordinator/Investigator, within ten (10) business days after receipt and consideration of any additional comments, questions and/or information

submitted, the Title IX Investigator/Coordinator will provide a final investigation report to both parties before a live hearing is held to decide whether the Respondent is ultimately responsible for the alleged policy violations.

viii. Live Hearing

A live hearing will be held to determine responsibility for policy violations. Notice of the hearing must be provided to both parties to include the date, time, location, participants, and purpose, with sufficient time for the parties to prepare. Both parties will have the opportunity for cross-examination of parties and all witnesses. Cross-examinations must be performed by the party's advisor. If a party does not have an advisor, ECSU must provide an advisor of the university's choice for that party to conduct the cross-examination at no cost.

Questions asked during the live hearing must first be evaluated by the Decision Maker for relevance before being permitted, and any questions rejected will be explained on the record. If any party does not attend the hearing and/or refuses to submit to cross-examination, the Decision Maker must exclude all prior statements made by that party, but may not draw negative inferences from the failure to participate.

After the conclusion of the live hearing, the Decision Maker must issue a written determination simultaneously to all parties for each alleged policy violation, including the specific section(s) of the code alleged to have been violated, the steps of investigation procedure, specific descriptions of all "findings of fact", conclusions, a statement and rationale with respect to each allegation, and procedures for appeal.

If there is a finding of a policy violation,

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

ix. Actions Taken as a Result of the Review

If an investigation results in a finding that the conduct or issue complained violates the Policy, appropriate corrective action must be taken. Corrective action to address the Respondent's conduct may include counseling about behavior, a letter of reprimand, or other appropriate action up to, and including, expulsion or dismissal. The Title IX Coordinator/Investigator may also take measures to assist the Complainant, including but not limited to, recommending a review of any negative academic decision that may have resulted from conduct that violated the policy or informing the Complainant of University resources, such as the Counseling Center that may be helpful.

If an investigation results in a finding that the conduct or issued complained of does not violate the Policy, all parties will be advised of the finding.

C. 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 for appeal is requested 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, not to include the original Decision Maker, Title IX Coordinator or Investigator. 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 based on 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.

D. 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 designated Decision Maker 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, and/or the Written Notice of Outcome by the Decision Maker 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, Decision

Maker, 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.

E. 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, Decision Maker 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. If any party does not have an advisor, ECSU must provide an advisor to either party at the discretion of the university free of charge.

4. DETERMINATION, SANCTION, AND NOTICE OF OUTCOME

A. Determination

Where either of the parties have contested the recommended finding(s) of responsibility by the Decision Maker, 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 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 five (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.

900.4.1.5

Adopted: 09/09/14

Amended: 12/13/16

Amended: 03/26/18

Amended: 04/14/20

Amended: 07/13/20

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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.

APPENDIX B

PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEX AND GENDER BASED DISCRIMINATION AND HARASSMENT, INTERPERSONAL VIOLENCE AND STALKING

WHERE THE RESPONDENT IS AN EMPLOYEE

ECSU students, faculty, staff, visitors, or third parties who believe they are directly affected by the conduct of a University employee may report the Prohibited Conduct to the University through the University Police, Dean of Students Office, or Title IX Office. This Appendix identifies the procedures the University follows when it receives a report alleging Prohibited Conduct. ECSU uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against University employees found responsible for violating the Policy.

1. REPORTING

ECSU encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct involving a Student or Employee to immediately report the incident to the University through the following reporting options:

Office of Title IX
130 Griffin Hall
(252) 335-3907 or (252) 368-6406
titleixcoordinator@ecsu.edu

Office of Human Resources
220 Marion D. Thorpe Administration Building
(252) 335-3874

ECSU University Police
142 Thomas Jenkins Building
(252) 335-3266
Safe ECSU-<https://www.ecsu.edu/safe/>

A Complainant or Reporting Party may choose to make a report to the University to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the policy, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly.

ECSU also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. The following guides identify confidential resources, both on - and off-campus, and further explain options for reporting Prohibited Conduct to the University and to law enforcement.

Students may refer to Student Resource Guide (Appendix C)

Employees may refer to the Employee Resource Guide (Appendix D)

Third Parties/Visitors may contact the University's Title IX Coordinator

The Complainant is entitled to receive information, assistance and a broad range of support and interim measures regardless of whether they choose to pursue criminal and/or University disciplinary resolution of Prohibited Conduct. The Student and Employee Resource Guides outline these resources and interim measures and describe how to request them.

2. EXPECTATIONS OF REPORTING AND RESPONDING PARTIES

Pursuant to these Procedures, the Complainant and Respondent Party can expect:

- a. Prompt and equitable resolution of allegations of Prohibited Conduct;
- b. Privacy in accordance with the Policy and legal requirements;
- c. Reasonably available interim measures, as described in these Procedures and in the applicable Resource Guide;
- d. Freedom from Retaliation for reporting Prohibited Conduct or participating in any proceeding under the Policy;
- e. The responsibility to refrain from Retaliation directed against any person making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- f. The responsibility to provide truthful information in connection with any report, investigation or resolution of Prohibited Conduct under the Policy or these Procedures;
- g. The right to choose an attorney or non-attorney advocate, including the right to have an advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- h. Written notice of an investigation, including notice of potential policy violations and the nature of the alleged Prohibited Conduct;
- i. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- j. The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s);
- k. Timely and equal access to any information that will be used during resolution proceedings and related meetings;
- l. Reasonable time to prepare any response contemplated by these Procedures;
- m. Written notice of any extension of timeframes for good cause; and
- n. Written notice of the outcome of any formal resolution proceedings; including the determination of a policy violation, and imposition of any sanction(s).

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed through the investigation process. Under the investigation process, responsibility for investigation and resolution of a complaint is assigned to the Office of Title IX in coordination with the Department of Human Resources.

3. PROCEDURES AND TIMEFRAMES

A. Filing a Complaint

ECSU encourages a student or employee who has a concern involving a faculty or staff member bring a complaint as soon as reasonably possible with University Police, Office of Title IX or Dean of Students Office. However, there is no time limit for filing a complaint. The Complainant should bring their complaint directly to the Office of Title IX either orally or in writing. A student may also bring their complaint to the appropriate administrator or supervisor, which may include a department chair, associate dean or other administrator.

B. Investigating a Complaint

i. Initial Notice

Any administrator or supervisor who receives notice of a student's complaint of alleged prohibited harassment, including sexual misconduct, or discrimination must notify the Title IX Coordinator, preferably immediately.,

ii. Conducting the Review

ECSU expects that an investigation will be performed and the Investigation Report submitted to the Title IX Coordinator and/or the designated Decision Maker within a timely manner unless there are mitigating circumstances, in which case the Complainant and Respondent shall be notified, provided and explanation and the estimated amount of additional time required.

iii. Responding to Report and Notification to the Parties

The designated Decision Maker must issue written determination simultaneously to both parties notifying both parties of the conclusion of the investigation, the findings and appeal procedures.

iv. Administrative Responsibility

ECSU administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute Prohibited Conduct or receives a complaint from a University member alleging Prohibited Conduct, the administrator or supervisor must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute Prohibited Conduct is strongly encouraged to contact the Office of Title IX.

Consistent with the policy, University administrators and supervisors or others identified as a responsible employee cannot assure confidentiality if they receive information about conduct that may constitute Prohibited Conduct.

v. Investigation Process

The purpose of an investigation, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to equitably address the concerns in order to resolve the complaint.

vi. Determination of Whether to Conduct an Investigation

The Office of Title IX will determine whether to proceed to an investigation based on its assessment of whether there sufficient information to believe that a policy violation may have occurred. 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), the date of the alleged incident, the 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 investigation shall also include a review of relevant documentary evidence. 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.

vii. Investigating the Complaint

The Title IX Coordinator/Investigator is expected to promptly investigate and submit a confidential Investigation Report to the designated Decision Maker, depending on the Respondent's affiliation with the University. The person(s) accused of Prohibited Conduct must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.

Both the Complainant and the Respondent will be given a copy of the policy and relevant procedures and also be given an explanation of the investigation process.

Both the Complainant and the Respondent may provide information relevant to the complaint, including the names of any witnesses to the Office of Title IX.

In determining whether the alleged Prohibited Conduct violates the policy and what, if any, corrective action should be taken, the designated Decision Maker must consider the record as a whole, including the nature of the alleged Prohibited Conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that the policy has been violated.

viii. Report and Documentation

At the conclusion of the investigation, the Title IX Coordinator/Investigator 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 Title IX Coordinator/Investigator; and submit additional comments and information that is relevant to the investigation. The Complainant and Respondent will also have the opportunity to identify any additional witnesses or evidence for the Title IX Coordinator/Investigator to pursue. The Title IX Coordinator/Investigator will designate a reasonable time for this review and response by the parties, not to exceed ten (10) business days.

Unless there are significant additional investigative steps requested by the parties or identified by the Title IX Coordinator/Investigator, within ten (10) business days after receipt and consideration of any additional comments, questions and/or information submitted, the Title IX Investigator/Coordinator will provide a final investigation report to both parties before a live hearing is held to decide whether the Respondent is ultimately responsible for the alleged policy violations.

ix. Live Hearing

A live hearing will be held to determine responsibility for policy violations. Notice of the hearing must be provided to both parties to include the date, time, location, participants, and purpose, with sufficient time for the parties to prepare. Both parties will have the opportunity for cross-examination of parties and all witnesses. Cross-examinations must be performed by the party's advisor. If a party does not have an advisor, ECSU must provide an advisor of the university's choice for that party to conduct the cross-examination at no cost.

Questions asked during the live hearing must first be evaluated by the Decision Maker for relevance before being permitted, and any questions rejected will be explained on the record. If any party does not attend the hearing and/or refuses to submit to cross-examination, the Decision Maker must exclude all prior statements made by that party, but may not draw negative inferences from the failure to participate.

After the conclusion of the live hearing, the Decision Maker must issue a written determination simultaneously to all parties for each alleged policy violation, including the specific section(s) of the code alleged to have been violated, the steps of investigation procedure, specific descriptions of all "findings of fact", conclusions, a statement and rationale with respect to each allegation, and procedures for appeal.

If there is a finding of a policy violation,

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

x. Actions Taken as a Result of the Review

If an investigation results in a finding that the conduct or issue complained violates the policy, appropriate action must be taken. Corrective action to address the Respondent's conduct may include counseling about behavior, a letter of reprimand, or other appropriate action up to, and including, expulsion or dismissal. The Title IX Coordinator/Investigator may also take measures to assist the Complainant, including but not limited to, recommending a review of any negative academic decision that may have resulted from conduct that violated the policy or informing the Complainant of University resources, such as the Counseling Center that may be helpful.

xi. Sanctions

- a. **Written Warning**-All written warnings shall inform the employee in writing that this is a written warning, and inform the employee of the specific issues that are the basis for the warning.
- b. **Emergency Removal**-The university may remove a Respondent on an emergency basis whether a grievance process is underway or not. There must be an emergency situation arising from alleged conduct that could constitute sexual harassment as defined above. An emergency removal is not limited to instances where the Complainant has reported an alleged sexual assault or rape, but could also be justified to address alleged severe, pervasive and objectively offensive verbal or online harassment.
- c. **Employee Administrative Leave**-Administrative leave may only begin after a formal complaint has been filed against the Respondent and as the grievance process begins. Administrative leave is meant for non-emergency situations.
- d. **Disciplinary Suspension Without Pay**-An employee may be suspended without pay for disciplinary purposes relating to any form of unacceptable personal conduct without any prior disciplinary action. Prior to placing an employee on disciplinary suspension without pay, a management representative shall conduct a pre-disciplinary conference with the employee.
- e. **Demotion**-Any employee may be demoted as a disciplinary measure. Demotion may be made based on unacceptable personal conduct without any prior disciplinary action. Prior to demoting an employee, a management representative shall conduct a pre-disciplinary conference with the employee.
- f. **Dismissal**-Dismissal may be a result of unacceptable personal conduct. An employee may be dismissed for causes relating to any form of unacceptable personal conduct without any prior disciplinary action. Prior to dismissing an employee, a management representative shall conduct a pre-disciplinary conference with the employee.

xii. Appeal of an Investigation

A Complainant or Respondent who is unsatisfied with the outcome of the Title IX investigation may appeal the finding through the appropriate Grievance Procedures, depending on the Respondent's affiliation with the University. Both parties have the right to appeal the finding within ten (10) business days upon receipt of the written determination notice. If the party is a faculty or staff member, the written appeal shall be submitted to the Department of Human Resources.

For SHRA and EHRA employees, if the appeal is granted, a hearing panel, not to include the original Decision Maker, Title IX Coordinator or Investigator will conduct an appeal hearing and render a new decision according to the evidence based on the preponderance of evidence standard. The written determination by the appeal-hearing panel shall constitute the final university decision and shall not enter the SHRA or EHRA Formal Grievance Procedure.

xiii. Time Frames for Filing an Appeal

Complainant and Respondent Parties have (10) days from the date of notification of the investigation findings to file an appeal if he/she feels that the investigation failed to produce an equitable resolution.

APPENDIX C

RESOURCE AND REPORTING GUIDE FOR STUDENTS

How to Get Help in the Event of an Emergency

Individuals who experience sexual assault or any other form of interpersonal violence are strongly encouraged to seek immediate help including medical attention, seeking confidential counseling or crisis response, reporting law enforcement, and/or reporting to the University.

Emergency Response	Medical Treatment	Counseling Services
<p>Emergency Law Enforcement - 911</p> <p>ECSU University Police (252) 335-3266 Emergencies-911</p>	<p>ECSU Student Health Services 300 Griffin Hall (252) 335-3267</p> <ul style="list-style-type: none"> • For confidential health concerns and preserving evidence <p>Emergency Department at Sentara Albemarle Hospital 1144 North Road Street (252) 335-0531</p> <ul style="list-style-type: none"> • Confidential care for students • Sexual assault exams/evidence collection • Screening and treatment of sexually transmitted infections • Emergency contraceptives • Pregnancy tests 	<p><u>On-Campus Resource:</u> ECSU Counseling Center 302 Griffin Hall (252) 335-3267</p> <p>a. Free confidential counseling and support for students</p> <p><u>Community Resource:</u> Albemarle Hopeline (252) 338-5338 24-hour confidential hotline- (252) 338-3011</p>

What Are Your Reporting Options?

FILING WITH UNIVERSITY (STUDENT CONDUCT VIOLATIONS)

What does this mean? Students can choose to file a report the University (“Complainant”) if the assailant is/was also a student or an employee. ECSU can then bring charges against the assailant (“Respondent”) for violations to the Policy on Sex and Gender Based Discrimination and Harassment, Interpersonal Violence and Stalking. Making a report to the University does not require participation in any subsequent University proceedings. There is no time limit for reporting Prohibited Conduct to the University.

After a Student Reports: ECSU is committed to provide support to all students. Support and protective measures vary case by case, but some examples include:

- a. No-Contact Directives between Complainant and Respondent
- b. Access to counseling services
- c. Modify on-campus housing arrangements
- d. Modify class schedules or other academic support

If Respondent is found responsible for violations to charges filed by the University, various sanctions may be distributed including possible temporary or indefinite suspension, expulsion.

How Do I Report to University:

Office of Title IX
130 Griffin Hall
(252) 335-3907
titleixcoordinator@ecsuh.edu

Students should be aware that all disclosures of Prohibited Conduct to any “Responsible Employee” will be reported to the Title IX Coordinator.

FILING WITH LAW ENFORCEMENT (CRIMINAL INVESTIGATIONS)

What Does this Mean: The police with proper jurisdiction (referenced above) will conduct a thorough investigation and collect evidence including witness statements, SANE kit if completed, and other forensic evidence. Reporting an assault to University Police does not commit a person to pressing charges or prosecuting the assailant. For most assaults in North Carolina, there is no statute of limitations for crimes; however, reporting earlier will allow a more thorough investigation to occur.

After a Student Reports: The evidence and case will be passed on to Pasquotank District Attorney’s Office where they will decide if the case will be tried or not. If the District Attorney decides to try the case, then it will be heard in criminal court.

How Do I Report to Law Enforcement:

ECSU University Police
142 Thomas-Jenkins Building
(252) 335-3266-Non-Emergencies
911-Emergencies

The Office of Title IX can also connect you with ECSU University Police Department. While filing a report with the University, it is possible for law enforcement agencies to be present as well. This is done in an attempt to streamline the reporting process-and keep the survivor from having to retell the account multiple times.

APPENDIX D

RESOURCE AND REPORTING GUIDE FOR EMPLOYEES

How to Get Help in the Event of an Emergency

Individuals who experience sexual assault or any other form of interpersonal violence are strongly encouraged to seek immediate help including medical attention, seeking confidential counseling or crisis response, reporting law enforcement, and/or reporting to the University.

Emergency Response	Medical Treatment	Counseling Services
<p>Emergency Law Enforcement - 911</p> <p>ECSU University Police (252) 335-3266 Emergencies-911</p>	<p>Emergency Department at Sentara Albemarle Hospital 1144 North Road Street (252) 335-0531</p> <ul style="list-style-type: none"> • Confidential care for patients • Sexual assault exams/evidence collection • Screening and treatment of sexually transmitted infections • Emergency contraceptives • Pregnancy tests 	<p><u>Community Resource</u> Albemarle Hopeline (252) 338-5338 24-hour confidential hotline- (252) 338-3011</p> <p>Employee Assistance Program ComPsych (866) 511-3365 Company ID: ECSU Online: guidanceresources.com</p>

What Are Your Reporting Options?

FILING WITH UNIVERSITY (POLICY CONDUCT VIOLATIONS)

What does this mean? Employees can choose to file a report the University (“Complainant”) if the assailant is/was also a student or an employee. ECSU can then bring charges against the assailant (“Respondent”) for violations to the Policy on Sex and Gender Based Discrimination and Harassment, Interpersonal Violence and Stalking. Making a report to the University does not require participation in any subsequent University proceedings. There is no time limit for reporting Prohibited Conduct to the University.

After an Employee Reports: ECSU is committed to provide support to all students. Support and protective measures vary case by case, but some examples include:

- a. No-Contact Directives between Complainant and Respondent
- b. Arrange access to counseling services
- c. Modify on-campus parking arrangements or telephone number
- d. Modify work schedule and/or work location

If Respondent is found responsible for violations to charges filed by the University, various sanctions may be distributed including possible temporary or indefinite suspension, expulsion.

How Do I Report to University:

Office of Title IX
130 Griffin Hall
(252) 335-3907

titleixcoordinator@ecsu.edu

Office of Human Resources
220 Marian D. Thorpe Administration Bldg.
(252) 335-3874

FILING WITH LAW ENFORCEMENT (CRIMINAL INVESTIGATIONS)

What Does this Mean: The police with proper jurisdiction (referenced above) will conduct a thorough investigation and collect evidence including witness statements, SANE kit if completed, and other forensic evidence. Reporting an assault to University Police does not commit a person to pressing charges or prosecuting the assailant. For most assaults in North Carolina, there is no statute of limitations for crimes; however, reporting earlier will allow a more thorough investigation to occur.

After an Employee Reports: The evidence and case will be passed on to Pasquotank District Attorney’s Office where they will decide if the case will be tried or not. If the District Attorney decides to try the case, then it will be heard in criminal court.

How Do I Report to Law Enforcement:

ECSU University Police
142 Thomas-Jenkins Building
(252) 335-3266-Non-Emergencies
911-Emergencies

The Office of Title IX and Human Resources can also connect you with ECSU University Police Department. While filing a report with the University, it is possible for law enforcement agencies to be present as well. This is done in an attempt to streamline the reporting process-and keep the survivor from having to retell the account multiple times.

Assistance without Reporting (Confidential Resources)

Resource	Contact Info	Hours of Operation	Cost
Integrated Family Services	110 Medical Dr. Suite 5 Elizabeth City, NC 1.866.437.1821	HOURS OF OPERATION Monday - Friday 8:00 AM - 5:00 PM	Contact clinic for info on insurance and costs
EAP ComPsych Guidance Resources	(866) 511-3365 Company ID: ECSU Online: guidanceresources.com	24 hours / 7 days a week	Contact agency for info on cost

Additional Resources

Human Resources (HR)

Works with employees related to all needs related to their employment. They are able to assist in providing any necessary accommodations at work. This office focuses on affirmative action and equal opportunity, employee relations, and employee services.
 (252) 335-3874.

APPENDIX E

REPORTING AND DIRECTING PROCEDURES FOR SEX AND GENDER-BASED DISCRIMINATION AND HARASSMENT, INTERPERSONAL VIOLENCE AND STALKING

Under this policy and related federal law, ECSU must identify and designate Responsible Employees to immediately report to ECSU's Title IX Office any conduct that comes to your attention that involves incidents of discrimination, harassment, sexual violence, dating and domestic violence and stalking. This responsibility is critical because the University is obligated to address the conduct that a Responsible Employee knew *or should have known*, so that the University may provide appropriate support, resources, and interim measures, take immediate and appropriate steps to investigate what occurred and take prompt and effective action to end any Prohibited Conduct, remedy its effects, and prevent its recurrence. All University employees are also required to complete training in order to understand their responsibilities in this area, including how to respond to disclosures of alleged Prohibited Conduct.

1. CONFIDENTIAL EMPLOYEES

Confidential Employees are not required to disclose information about Prohibited Conduct to the University without the student's or employee's permission (subject to exceptions set forth in the Confidentiality section of this policy).

There are three categories of Confidential Employees:

- A. Any employee who is a licensed medical, clinical or mental-health professional (e.g. physicians, nurses, physicians' assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision);
- B. Any employee providing administrative, operational and/or related support for such health care providers in their performance of such services;
- C. Clergy

Confidential Employees at ECSU include:

- A. Employees in Student Health Services
- B. Employees in the Counseling Center

2. RESPONSIBLE EMPLOYEES

Responsible Employees are required to report to the University's Title IX Coordinator all relevant details disclosed by a reporting about an incident of Prohibited Conduct that involves any Student or Employee as a Complainant, Respondent, and/or witness, including dates, times, locations, and names of parties and witnesses.

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 at ECSU include:

- a. Board of Trustees
- b. Chancellor, Chief of Staff, and Deputy Chief of Staff
- c. Provost and Associate Provosts
- d. Vice Chancellors
- e. Associate and Assistant Vice Chancellors
- f. Directors and Assistant Directors
- g. General Counsel
- h. University Police Department
- i. Dean of Students and their direct reports
- j. Director of Athletics and their direct reports
- k. Head Coaches and Assistant Coaches of Varsity Athletics
- l. Deans, Assistant and Associate Deans, Department Chairs
- m. Director of Graduate Studies
- n. Directors of Research and/or Instructional Centers
- o. Department of Human Resources staff members
- p. Faculty and/or Staff Advisors to officially recognized student organizations
- q. Office of Housing and Residence Life Supervisors and Staff
- r. Professional Student Advising Staff (This does not include Faculty Advisors)
- s. Residential Advisors
- t. Coordinators for University sponsored programs involving minors

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).