ELIZABETH CITY STATE UNIVERSITY
Policy on Sexual and Gender Based Harassment and
Other Forms of Inter-Personal Violence

Related Policies:
ECSU Sexual Harassment Policy # 900.1.2
UNC SPA Employee Grievance Policy at the following link:
http://www.northcarolina.edu/sites/default/files/documents/university_spa_employee_grievance_policy_effective_5-1-14__final.pdf
ECSU Workplace Violence Policy # 200.1.7

Preamble

The University prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Complicity in the commission of any act prohibited by this policy, and Retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy (collectively, “Prohibited Conduct”). These forms of Prohibited Conduct are unlawful, undermine the character and purpose of the University, and will not be tolerated.

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

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. Employees or Students who violate this policy may face disciplinary action up to and including termination or expulsion. The University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The University conducts ongoing prevention, awareness, and training programs for Employees and Students to facilitate the goals of this policy. Prohibited Conduct is not tolerated; the University shall (1) cultivate a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (2) provide a fair and impartial process for all parties; and (3) identify the standards by which violations of this policy will be evaluated and disciplinary action may be imposed. It is the responsibility of every member of the University community to foster an environment free of Prohibited Conduct. All members of the University community are encouraged to take
reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. The University will support and assist community members who take such actions.

1. **Title IX Coordinators**

   A. ECSU has a designated Title IX Coordinator who oversees the University’s administrative response to all reports of Sexual or Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking. The Title IX Coordinator is:

   i. Responsible for overseeing the administrative investigation and resolution of all reports of Sexual Violence, Interpersonal Violence and Stalking involving students, faculty and staff members;

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

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

   iv. Available to provide assistance to any University employee regarding how to respond appropriately to a report of Sexual or Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking;

   v. Responsible for the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and

   vi. Responsible for overseeing training, prevention and education efforts and annual reviews of climate and culture.

   vii. Ensure compliance with University Title IX Complaint Process

   B. The Deputy Title IX Coordinator/Investigator assists the Title IX Coordinator with various Title IX implementation activities that involve faculty, staff, and students. The Deputy Title IX Coordinator is also designated as ECSU’s administrative Title IX Investigator, responsible for investigating complaints of Prohibited Conduct related to Sexual or Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking.

2. **Sexual Harassment & Retaliation**

   A. **Harassment:** A type of discrimination that occurs when verbal, sexual, gender-based, physical, electronic and/or another form of conduct based upon an individual’s Protected Status interferes with that individual’s educational environment (e.g., admission, academic standing, grades, assignment); work environment (e.g., hiring, advancement, assignment), participation in a University program or activity (e.g., campus housing) or receipt of legitimately-requested
services (e.g., disability accommodations), thereby creating Hostile Environment Harassment or Quid Pro Quo Harassment, as defined below.

B. **Hostile Environment Harassment**: Unwelcome conduct by an individual against another individual based upon Protected Status that is so severe, persistent, or pervasive that it alters the conditions of education (e.g., admission, academic standing, grades, assignment), employment (e.g., hiring, advancement, assignment), participation in a University program or activity (e.g., campus housing) or receipt of legitimately-requested services (e.g., disability accommodations) and creates an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, offensive or abusive. An isolated incident, unless sufficiently serious, will usually not amount to Hostile Environment Harassment.

C. **Quid Pro Quo Harassment**: Unwelcome conduct by an individual against another individual based upon Protected Status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual’s education (e.g., admission, academic standing, grades, assignment), employment (e.g., hiring, advancement, assignment), participation in a University program or activity (e.g., campus housing) or receipt of legitimately-requested services (e.g., disability accommodations).

D. **Retaliation** is expressly prohibited under this policy. Retaliation is defined as any action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

3. **Prohibited Conduct**

Prohibited conduct is defined as any act of a sexual nature perpetrated against an individual without effective consent (see definition below of “effective consent”) or when an individual is unable to freely give consent. Prohibited conduct includes, but is not limited to the following types of sexual misconduct:

A. **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).

B. **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.

C. **Sexual exploitation** defined as taking non-consensual, unjust or abusive sexual advantage of another, for one’s own advantage or benefit; or to benefit or advantage anyone other than the one being exploited. Sexual exploitation encompasses a wide range of behaviors which may include, but are not limited to:

   i. Non-consensual video or audio-recording of sexual activity; Inducing incapacitation by the use of drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as “consent” is defined in this policy) to sexual contact with the intent to rape or sexually assault another student;
   ii. Allowing others to observe a personal act of consensual sex or non-consensual without knowledge or consent of the partner;
   iii. Engaging in peeping tommery (voyeurism); or
   iv. Knowingly transmitting a sexually transmitted disease, including HIV, to another student or employee.

D. **Sexual intimidation** involving the following:

   i. Threatening to commit a sexual misconduct upon another person;
   ii. Stalking;
   iii. Cyber-stalking; or
   iv. Engaging in indecent exposure.

E. **Sexual Violence** is defined as physical sexual acts engaged without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

F. **Domestic Violence** is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.

G. **Dating Violence** is any violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party, where the existence of such a relationship shall be determined on a case-by-case
basis of the following factors: (a) reporting party's statement, (b) length of relationship, (c) type of relationship, (d) frequency of interaction between the persons involved in the relationship.

**H. Stalking** is behavior in which a person is repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

4. **Effective Consent**

Effective consent is freely and actively given when both parties agree to engage in a specific sexual activity. In the absence of mutually understandable words or actions it is the responsibility of the initiator, that is, the person who wants to engage in the specific sexual activity, to make sure that they have consent from his/her partner(s). Consent is mutually understandable when a sober, 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, and 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 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) or 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.
Adopted: 09/09/14
Amended: 12/13/16
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i. Consent may never be given by any of the following:
   a. Minors (under the age of 16 in North Carolina);
   b. Mentally disabled persons;
   c. 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;
   d. An individual may not engage in sexual activity with another whom one knows, or should reasonably have known, is incapacitated as a result of alcohol or other drugs. The perspective of a reasonable person will be the basis for determining whether an individual should have known about the impact of the use of alcohol or drugs on another’s ability to give consent. Being intoxicated or high does not diminish an individual’s responsibility to obtain consent and is never an excuse for sexual misconduct.

Reporting Prohibited Conduct

A. PROCEDURES REPORTING PARTY SHOULD FOLLOW TO PRESERVE EVIDENCE

If an incident of Prohibited Conduct occurs it is important to preserve evidence to aid in the possibility of a successful criminal prosecution. The Reporting Party of a Prohibited Conduct should not wash, douche, use the toilet, or change clothing prior to a medical exam. Any clothing removed should be placed in a paper bag. Evidence of violence, such as bruising or other visible injuries, following an incident of domestic or dating violence should be documented including through the preservation of photographic evidence. Evidence of stalking including any communication, such as written notes, voice mail, or other electronic communications should be saved and not altered in any way.

The length of time between an incident and making a report of Prohibited Conduct will not affect the willingness of ECSU to investigate the allegations or to provide support and other services to the student reporting an incident of Prohibited Conduct. However, a prompt report will significantly improve the ability of University officials to conduct a full investigation and enhance the effectiveness of any criminal and/or University investigation. Individuals are therefore strongly encouraged to report incidents of Prohibited Conduct immediately following the occurrence.

B. OPTION OF REPORTING ON-CAMPUS CONDUCT TO POLICE, TITLE IX OFFICE, AND MANDATORY REPORTER

The University encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct involving a Student to immediately report the incident to the University through at least one of the following reporting options:
1. University Police
In the case of an emergency or ongoing threat, get to a safe location, if possible, and report the incident by calling 911. The University encourages students to report incidents of sexual misconduct to the appropriate local law enforcement agency; however, the Reporting Party has the right not to report the incident to law enforcement. If the Reporting Party does wish for an 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.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Phone Number</th>
<th>Email</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Manley</td>
<td>Chief of Police</td>
<td>(252) 335-3555</td>
<td><a href="mailto:ihmanley@ecsu.edu">ihmanley@ecsu.edu</a></td>
<td>142 Thomas-Jenkins Bldg.</td>
</tr>
</tbody>
</table>

If the Reporting Party reports to University Police or local law enforcement, University Police will provide reasonable assistance to the Reporting Party in obtaining a North Carolina no-contact/restraining order from a criminal court. The University is committed to ensuring that any such order is fully upheld on all institutionally owned and controlled property.

Once a complaint is made to University Police, their office shall notify the Reporting Party of their right to file a complaint with the University in addition to filing a criminal complaint. These complaints may be filed concurrently at the election of the Reporting Party. Section IV provides the necessary information for filing a University complaint. Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decide to investigate the matter is determinative of whether a violation of this policy occurred.

2. Title IX Office
ECSU Title IX Coordinator or Deputy Coordinators
Reports to the Title IX Coordinator can be made via email, phone, or in person at the contact information below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Contact Number</th>
<th>Email</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rafael Bones</td>
<td>Title IX Coordinator</td>
<td>(252) 335-3785</td>
<td><a href="mailto:rabones@ecsu.edu">rabones@ecsu.edu</a></td>
<td>250 Marion D. Thorpe Admin. Bldg.</td>
</tr>
<tr>
<td>N. Kathryn Underwood-Melton</td>
<td>Title IX Deputy Coordinator/Investigator</td>
<td>(252) 335-3600</td>
<td><a href="mailto:nkunderwood@ecsu.edu">nkunderwood@ecsu.edu</a></td>
<td>336 Marion D. Thorpe Admin. Bldg.</td>
</tr>
<tr>
<td>Tanisha Brumsey</td>
<td>Title IX Investigator</td>
<td>(252) 335-3874</td>
<td><a href="mailto:tfbrumsey@ecsu.edu">tfbrumsey@ecsu.edu</a></td>
<td>243 Marion D. Thorpe Admin. Bldg.</td>
</tr>
</tbody>
</table>
If the Reporting Party does not wish for their names to be shared, do not wish for an investigation to take place, or do not want a formal resolution to be pursued, they may make such a request to the Title IX Coordinator or Deputy Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threats, use of weapons, and/or violence, ECSU will likely be unable to honor a request for confidentiality. In cases where the Reporting Party requests confidentiality and the circumstances allow the university to honor that request, the university will offer interim supports and remedies to the Reporting Party and the community, but will not otherwise pursue formal action. A Reporting Party has the right, and can expect, to have reports taken seriously by ECSU when formally reported, and to have those incidents investigated and properly resolved through these procedures.

The Title IX Coordinator or Deputy Title IX Coordinator may issue a University temporary no-contact order pending the outcome of any conduct proceeding or investigation.

The Title IX Investigator will not wait for the conclusion of a criminal investigation or criminal proceeding to begin the University’s administrative investigation.

Reporting to the Title IX Office still affords privacy to the Reporting Party; only a small group of university officials who need to know will be told, including but not limited to: Title IX Office, Division of Student Affairs, and University Police. Information will only be shared as necessary with investigators, witnesses, and the Responding Party. The circle of people with this knowledge will be kept as tight as possible to preserve a Reporting Party’s rights and privacy. Additionally, anonymous reports can be made by the Reporting Party and/or third parties at this website https://cm.maxient.com/reportingform.php?ElizabethCityStateUniv.

Information obtained through the criminal investigation may be used by the Title IX Investigator 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.
The following contact information should be used when reporting an incident to a University official:

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</tr>
<tr>
<td>Tanisha Brumsey</td>
<td>Title IX Investigator</td>
<td>(252) 335-3874</td>
<td><a href="mailto:tfbrumsey@ecsu.edu">tfbrumsey@ecsu.edu</a></td>
<td>243 Marion D. Thorpe Admin. Bldg.</td>
</tr>
<tr>
<td>John Manley</td>
<td>Chief of Police</td>
<td>(252) 335-2973</td>
<td><a href="mailto:jhmanley@ecsu.edu">jhmanley@ecsu.edu</a></td>
<td>142 Thomas-Jenkins Bldg.</td>
</tr>
</tbody>
</table>

C. REPORTING OFF-CAMPUS CONDUCT TO LOCAL LAW ENFORCEMENT

Prohibited Conduct that occurs off-campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy. If the incident occurred off University owned or leased property, University Police will assist the Reporting Party 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 been reported to a law enforcement agency.

D. MANDATORY REPORTING

1. Prohibited Conduct Involving Students:
   In order to proactively enable the University to respond effectively and to stop all Prohibited Conduct involving students at the University, all University employees must immediately report information they have about alleged or possible Prohibited Conduct to the Title IX Coordinator.

   Making a report to the University means telling a Responsible Employee, as defined later in the document, what happened, in person, by telephone, in writing, by e-mail or anonymously. In general, an individual can make a report to any University employee, but the University encourages a Reporting Party to make a report directly to the Title IX Coordinator, the Title IX Investigator, The Dean of Students, and/or the Police Department. All individuals are encouraged to make a report, regardless of when or where the incident occurred, or to seek help from campus or community resources.

   Upon receipt of a report, the University will make an immediate assessment of any risk of harm to the parties, any other individual or to the broader campus community and will take the necessary steps to address those risks. These steps
may include Interim Protective Measures, as outlined later in the document, to provide for the safety of the parties and the campus community.

2. Reporting by Responsible Employees:
Employees with supervisory and leadership responsibilities on campus are considered Responsible Employees. This includes employees with a responsibility for student welfare.

Responsible Employees will safeguard an individual’s privacy, but are required by the University to share a report of misconduct (including the known details of the incident and the names of the parties) with the Title IX Coordinator or University Police. It is important to understand that any University employee designated as a Responsible Employee under this Policy is required to share a report of Sexual or Gender-Based Harassment, Sexual Violence, Interpersonal Violence or Stalking with the University’s Title IX Coordinator. The Title IX Coordinator or Investigator will conduct an initial assessment of the incident or behavior at issue, the Reporting Party’s desired course of action, and the necessity for any Interim Protective Measures or accommodations to protect the safety of the Reporting Party, any other individual or the community.

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

3. Accommodations for Reporting Parties and Accused Parties
The University will take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. The University may also take interim measures to assist or protect the parties during the grievance process, as necessary and with the Reporting and Responding Party’s consent. Whether or not a student or employee reports to law enforcement and or pursues any formal University Title IX action, the University is committed to providing them as safe learning or working environment as possible and will take steps to prevent recurrence of any misconduct and correct its discriminatory effects on the Reporting and Responding Party and others. Upon request, the University will make any reasonably available change to a Reporting or Responding Party’s academic, living, transportation, and or working situation. Students may contact the Title IX Coordinator for assistance. Employees who are the Reporting or Responding Party may also contact the Title IX Coordinator for assistance in ensuring they receive the proper accommodation.
4. **On–Campus and Off Campus Resources**

Both ECSU and the City of Elizabeth City offer important resources to the Reporting Party, alleged perpetrator, and witnesses of sexual violence including medical treatment, counseling and advocacy they may wish to utilize. At ECSU, the Office of Dean of Students and the Counseling and Testing Center are available to assist any student free of charge. The Office of Human Resources is available to help any employee also free of charge. These offices will help the Reporting Party consider their options and navigate through any resources or recourse they elect to pursue. A Reporting Party or witness need not make a formal report to law enforcement or ECSU to access these resources that include the following:

<table>
<thead>
<tr>
<th>Resource</th>
<th>Contact Number</th>
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<tr>
<td><strong>ON CAMPUS RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Counseling and Testing Center</td>
<td>252-335-3273</td>
<td>500 Griffin Hall</td>
</tr>
<tr>
<td>Student Health Services</td>
<td>252-335-3267</td>
<td>300 Griffin Hall</td>
</tr>
<tr>
<td>Women’s Center</td>
<td>252-335-8535</td>
<td>502 Griffin Hall</td>
</tr>
<tr>
<td><strong>OFF CAMPUS RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sentara Albemarle Hospital</td>
<td>252-335-0531</td>
<td>1144 N. Road St. Elizabeth City, NC</td>
</tr>
<tr>
<td>Albemarle Hopeline</td>
<td>Business hours: 252-338-5338 24-hour crisis hotline &amp; advocacy services: 252-338-3011</td>
<td>P.O. Box 2064 Elizabeth City, NC</td>
</tr>
<tr>
<td>North Carolina Coalition Against Sexual Assault</td>
<td>919-871-1015</td>
<td>811 Spring Forest Rd. Suite 900 Raleigh, NC 27609</td>
</tr>
</tbody>
</table>

5. **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 at the same time of the incident when he or she became a Reporting Party or witness of Prohibited Conduct. Therefore, the University shall not file charges against a student who reports that the student was under the influence of alcohol at the time the student became a Reporting Party of Prohibited Conduct. Amnesty shall also be granted to students who initiate and seek assistance and/or medical aid on behalf of another student or friend experiencing an emergency related to Prohibited Conduct. Any person who makes a report will not be subject to disciplinary action by ECSU for their own personal consumption of alcohol or other drugs at or near the time of 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 illegal or prohibited use of alcohol or drugs.

**ECSU TITLE IX COMPLAINT PROCESS**

**UNIVERSITY COMPLAINT PROCESS**

**A. UNIVERSITY’S OBLIGATION UNDER TITLE IX**

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

i. The seriousness of the alleged Prohibited Conduct;
ii. the Reporting Party’s and/or alleged Reporting Party’s age;
iii. whether there have been other complaints of Prohibited Conduct against the accused;
iv. the accused right to receive information about the allegation if the information is maintained by the University as an “education record under FERPA; and
v. the applicability of any laws mandating disclosure.

Prohibited Conduct complaints shall not be subject to any type of mediation proceeding.

**B. INVESTIGATION AND STANDARD OF PROOF**

The Title IX Investigator shall begin the process of investigating a Prohibited Conduct complaint. Investigations shall be conducted within 60 days or less unless there are mitigating circumstances in which case the Reporting and Responding Party shall be notified, providing an explanation, and the amount of additional time required. The Title IX Investigator shall be authorized to interview the Reporting Party, the alleged offender and any witnesses. The investigation shall also include a review of relevant documentary evidence. Meetings with the parties and witnesses shall be conducted individually and shall not take the form of a hearing. Both parties shall be provided with the opportunity to
present relevant witnesses and other evidence to the Title IX Investigator to ensure a thorough investigation.

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 Reporting and Responding Party 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 five (5) calendar days.

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within five (5) calendar 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 will prepare a Final Investigation Report, which will include a recommendation as to whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility for a violation of the Policy.

The report shall be submitted to the Title IX Coordinator for review. Upon review of the written report, the Title IX Coordinator may return the report back to the Title IX Investigator for further investigation, if he/she deems necessary. Once the report is complete and final, the Responding and Reporting party will receive written notice at the same time that the investigation is complete and is being referred to the appropriate office to determine a finding of a policy violation and appropriate sanction, as applicable. Upon giving notice, the Title IX Coordinator shall immediately take the following action after sending notice to both parties:

i. Forward to the Director of Human Resources or their designee for a determination of a policy violation and disposition pursuant to applicable university policies pertaining to employees;

ii. Forward to the Dean of Students for a determination of a policy violation and appropriate sanction(s).

C. FINDING OF A POLICY VIOLATION (Student)

In reaching a determination of a policy violation, the Dean of Students will review the report of investigation, may discuss the findings and conclusions with the Title IX Coordinator and Investigator and ask for additional inquires and information, as appropriate. If the Dean of Students determines that a policy violation occurred, he/she shall issue an appropriate sanction and notify the Respondent and Reporting Party of the
sanction at the same time in writing. If the sanction and the policy violation, as outlined in the notice, is agreed upon by both parties, the complaint shall be considered closed.

Either party has the option to reject the Sanction or finding of a Policy Violation or both and request a hearing before a Title IX Hearing Board. Within three business days from the imposition of Sanctions and the finding of a Policy violation, either the Reporting Party or the Responding Party may submit a written request to the Dean of Students objecting to the proposed sanctions and request a hearing to determine the appropriateness of the Sanction, Policy violation, or both. The notice requesting a hearing must clearly state whether the Responding Party or Reporting Party is challenging the Sanction, the finding of a Policy violation, or both. The Dean of Students shall forward the written notice to the Chair of the Title IX Hearing Board to schedule a hearing.

D. FINDING OF A POLICY VIOLATION (Employee)

If there is a finding that a violation occurred, the Director of Human Resources or his/her designee, in consultation with the appropriate manager, shall determine an appropriate sanction and notify, in writing, the accused and the Reporting Party.

TITLE IX HEARING BOARD REVIEW

A. Title IX Hearing Board Members

In consultation with the Title IX Coordinator, the Division of Student Affairs will convene a Title IX Hearing Board (“Hearing Board”) once a request by either party is made in writing. A Hearing Board will be comprised of at least three (3) individuals, selected by the Chancellor or his/her designee, from a pool of trained and/or experienced Board members. Any individual designated by the University to serve on a Hearing Board must have sufficient training or experience to serve in this capacity. Board members may include University faculty or staff members or an outside expert from the surrounding community or another constituent institution or agency or the University of North Carolina system. A University student and the Dean of Students 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.

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

A hearing is an opportunity for the parties to address trained faculty and staff members that sit on a Hearing Board, in person about the findings as determined by the Dean of Students. The hearing may not be scheduled for at least ten (10) calendar days after the student receives notice of the hearing date, unless the student agrees to an earlier hearing date. Reasonable extensions of time for either party to prepare for the hearing should be allowed.

Each party may address any information compiled in the Investigation Report by the Title IX Investigator and any other statements or evidence. Each party has the opportunity to be heard, to identify witnesses for the Hearing Board’s consideration, and to respond to any questions of the Hearing Board. The parties may not directly question each other or any witness, although they may proffer questions for the Hearing Board, which may choose, in its discretion, to pose appropriate and relevant questions to the Investigator, the parties and/or any witnesses. If any questions are requested by a party are determined to not be appropriate or relevant, the Chair of the Hearing Board must state the reason for the record. A typical hearing may include brief opening remarks by the Complainant and/or Respondent, with follow-up questions posed by the Hearing Board and information presented by the Investigator or witnesses deemed relevant by the Hearing Board. Follow-up questions by the Hearing Board of the Investigator or witnesses and brief concluding remarks by the Reporting Party and/or Respondent are also appropriate. The Chair of the Review Board has the discretion to determine the specific Hearing format as circumstances may dictate. A transcript or other verbatim record of the hearing (but not of the deliberations) will be prepared. The institution will be responsible for the costs of this record. The hearing will be closed to the public.

i. Hearing Participation by Parties, Investigators, Witnesses, and Advisors

1. Responding and Reporting Party
   Both the Reporting and Responding Party have a right to be present at the hearing. Either party may request alternative methods for participating in the hearing (i.e. electronic) 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) calendar days prior to the hearing. If, after being notified of the date, time, and location of the hearing, either party is not in attendance, 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.

2. Witnesses, Investigator(s), and Other Relevant Parties
   The Hearing Board may request the presence of the Investigator or any other witness or relevant party it deems necessary to its determination. The Responding or Reporting party may also request the presence of any witness
they deem relevant to the determination by the Review Board. Students wishing to request witnesses are required to submit a witness list 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, in its discretion, may note for the record why it declined to hear from a witness or other relevant party.

3. Attorney - Non-Attorney Advocate/Advisor
   During the hearing, each party may be accompanied by an advisor. The Reporting or Responding party may have only one advisor. A legal attorney may be used as an advisor. The advisor may advise, assist, and accompany the responding party in the 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.

ii. Determination, Sanction, and Notice of Outcome

1. Determination
   Where either of the parties have contested the recommended finding(s) of responsibility by the Dean of Students, the members of the Review Board will, at the conclusion of the Hearing, determine, by majority vote a finding of a Policy violation. This determination shall be made by a preponderance of the evidence and issue a Sanction, as appropriate.

2. Sanction
   A sanction is tool designed to address policy violations. The Policy prohibits a broad range of 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 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 Hearing Board with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the conduct, the impact of the conduct on the Reporting Party and University community, and accountability by the Responding Party. 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, 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:

a. The severity, persistence or pervasiveness of the Prohibited Conduct;
b. The nature or violence of the Prohibited Conduct;
c. The impact of the Prohibited Conduct on the Reporting Party;
d. The impact or implications of the Prohibited Conduct within the University community;
e. Prior misconduct by the Responding Party, including the Responding Party’s relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
f. Whether the Responding Party has accepted responsibility for the Prohibited Conduct;
g. The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
h. Any other mitigating, aggravating, or compelling factors.

The following sanctions, and others not listed here and noted in the Student Code of Conduct, may be imposed when any student is found responsible for a violation of University Policy:

a. Formal Written Warning: A notice that the student fully understands the policy and is expected to cease from further violations.

b. 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 must be completed prior to the conclusion of disciplinary probation; otherwise, the disciplinary probation will remain in effect.

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

d. Disciplinary Suspension: Separation of the student from ECSU for a specific period of time, after which the student is eligible to return. The Associate Vice Chancellor for Student Affairs/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/employee 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, Financial Aid Office, and Office of Academic Affairs.

e. Disciplinary Expulsion: Permanent separation of the student from the University. At the discretion of the Associate Vice Chancellor for Student Affairs/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, Financial Aid Office, and Office of the Assistant Vice Chancellor for Academic Affairs.

Outcomes applied subsequent to a student conduct hearing go into effect immediately upon receipt of notice of those outcomes, whether notice was transmitted electronically or via hard copy. If a reasonable attempt has been made to notify the Responding or Reporting party 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 an appeal process.

3. Notice of Outcome

The Hearing Board decision must be reached within forty-five (45) calendar days after the hearing is completed. The Hearing Board Chair will simultaneously issue a written decision (the” Notice of Outcome”) to both the Reporting and Responding Party, with a copy to the Title IX Coordinator, within five (5) calendar days following the Hearing Board (or such longer time as the Chair may for good cause determine). The Notice of Outcome will set forth the violation(s) of the Policy for which the Responding Party was found responsible or not responsible, as supported by the testimony, investigations report and other evidence presented during hearing. The Notice of Outcome may also identify protective measures implemented with respect to the Responding Party or the broader University community. The Notice of Outcome will not disclose any remedial measures provided to the Reporting Party.

C. Appeal

Either party may appeal the Hearing Board’s decision to the Vice Chancellor of Student Affairs (Appeals Officer) within five (5) calendar days of the receipt of the Hearing
Board’s decision. The appeal must be submitted in writing to the Title IX Coordinator and Vice Chancellor of Student Affairs. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. Receipt of the written appeal will be acknowledged in writing.

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 the Sanction(s) only where there is clear error.

Grounds for appeal include the following:

i. demonstration of a significant procedural error; or
ii. the availability of compelling new evidence; or
iii. demonstration of bias on the part of a member of the Board involved in the case; or
iv. demonstration that the rights of the Reporting Party or accused were violated according to this Policy.

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.

A. SUPPORT FOR THE REPORTING PARTY

The Title IX Coordinator, in concert with the Dean of Students will identify support to address the effects of the conduct on the Reporting Party, restore the Reporting Party’s safety and well-being and maximize the Reporting Party’s educational and employment opportunities. Support should assist the Reporting Party, to the extent possible, to all benefits and opportunities lost as a result of the prohibited conduct.
The University will consider the appropriateness of support, including *Interim Protective Measures*, and accommodations on an ongoing basis to assure the safety and well-being of the parties throughout process. Support may include extending or making permanent any Interim Protective Measures or implementing additional measures tailored to achieve the goals of this Policy. Examples of support measures may include:

i. Counseling services  
ii. Rescheduling of exams and assignments  
iii. Providing alternative course completion options  
iv. Change in class schedule, including the ability to drop a course without penalty or to transfer sections  
v. Change of grade to an incomplete or withdrawal  
vi. Opportunity to complete missed work in a course or to retake a course without charge  
vii. Change in work schedule or job assignment  
viii. Reimbursement for lost wages  
ix. Restitution for property damage by the *Responding Party*  
x. Change in student’s University housing accommodations or reimbursement for housing costs  
xi. Assistance from University support staff in completing housing relocation  
 xii. Voluntary leave of absence or return from leave of absence  
 xiii. Escort to ensure safe movement between classes and activities  
xiv. Medical services obtained as a result of the prohibited conduct  
xv. Academic support services and resources  
xvi. Assistance in obtaining accommodations such as tutoring  
xvii. Reinstatement to a fraternity, sorority, athletic team or other extracurricular activity

B. CONFIDENTIALITY

The University recognizes the importance of confidentiality and University officials shall respect the confidentiality and privacy of individuals reporting or accused of any Prohibited Conduct to the extent reasonably possible. Confidentiality may not be able to be maintained in circumstances where the law requires disclosure of information or when disclosure required by the University outweighs protecting the rights of others.

If the University cannot take disciplinary action against the alleged harasser because the Reporting Party insists on confidentiality, the University will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

C. CLERY ACT REPORTING

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

D. 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.

E. RECORDS

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

F. CAMPUS TRAINING AND EDUCATION

ECSU is committed to increasing the awareness of and preventing 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 before it occurs through the changing of social norms and other approaches; that includes a clear statement that ECSU 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 include:
   i. Poster Campaign
   ii. Think About It
   iii. New Student Orientation
   iv. New Employee Orientation
   v. Training for students, faculty, and staff
   vi. Vikings Against Violence Website
   vii. Bystander intervention training
   viii. Law enforcement and judicial board trainings on sexual violence

G. EXTERNAL COMPLAINTS

As a student or employee, if you filed a complaint with the University and believe the University’s response was inadequate, or you otherwise believe you have been discriminated against by the University on the basis of race, color, national origin, sex, including sexual harassment, disability, age, religion, creed, pregnancy, marital status, familial status (housing
only), or political beliefs, or retaliation, 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

H. ANNUAL REVIEW

The members of the Title IX/Clery Committee and Title IX Coordinator will review this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed). The review will include the opportunity for individuals affected by the Policy to provide feedback and will incorporate an aggregate view of reports, resolution and climate. The Title IX Coordinator will prepare an annual report, publicly available, which will include recommendations and/or steps taken to improve the delivery of services and the effectiveness of the Policy and procedures.