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# **UNIVERSITY POLICY MANUAL ([HTTPS://POLICY.UNCG.EDU/](https://policy.uncg.edu/))**

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## **TITLE IX POLICY**

The University of North Carolina at Greensboro

Approved by the Chancellor, 08/10/2020

Revised, 08/22/2022

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### **1. PURPOSE**

The University of North Carolina at Greensboro, wherever located (collectively, the “University”), is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. The University does not discriminate on the basis of sex, including sex assigned at birth, or gender, including gender identity and gender expression, in any of its education programs and activities. This policy prohibits specific forms of discriminatory behavior that violate Title IX of the Education Amendments of 1972 and its implementing regulation (“Title IX”).

### **2. SCOPE**

This policy applies to students who are registered or enrolled for credit- or non-credit-bearing coursework (“Students”); University employees, consisting of all full-time and part-time faculty, staff (including temporary employees), professional research staff, and post-doctoral fellows (“Employees”). This policy pertains to acts of Sex Discrimination, including Sexual Harassment (“Sex Discrimination” or “Sexual Harassment”), as defined below, committed by or against Students and Employees when the conduct occurs:

- on University grounds or other property owned or controlled by the University;  
or
- in the context of a University employment or education program or activity, including, but not limited to, locations, internships, placements, events, or circumstances over which the University has substantial control over both the

respondent and the context in which the Sex Discrimination or Sexual Harassment occurs; or

- in any building owned or controlled by a student organization that is officially recognized by the University; and
- in the United States.

For Sex Discrimination or Sexual Harassment that exceeds the scope of this policy, please see the UNC Greensboro Student Code of Conduct and Human Resource Workplace Harassment & Discrimination policies.

### **3. DEFINITIONS**

#### **3.1 COMPLAINANT**

An individual who is alleged to be the victim of conduct that could constitute sexual harassment. While anyone may report incidents of Sex Discrimination and Sexual Harassment to the University, only a Complainant may submit a Formal Complaint to the Title IX Coordinator.

#### **3.2 CONSENT**

Informed (knowing), voluntary (freely given), active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed- upon sexual activity. Consent cannot be gained by taking advantage of the incapacitation of another and it cannot be obtained by force, including physical violence, threats, intimidation, and/or coercion.[1]

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[1] For more information and explanations regarding consent, see:

<https://sa.uncg.edu/handbook/student-code-of-conduct/>

(<https://sa.uncg.edu/handbook/student-code-of-conduct/>).

#### **3.3 EXCULPATORY EVIDENCE**

Evidence, such as a statement, tending to excuse, justify, or absolve the alleged fault or responsibility of a respondent.

#### **3.4 FORMAL COMPLAINT**

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in

the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator by submitting an online form after meeting with the Title IX Coordinator, or their designees, or by submission of a signed document in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator above.

### **3.5 INCULPATORY EVIDENCE**

Evidence tending to establish responsibility or intended to establish responsibility.

### **3.6 INVESTIGATOR(S)**

Official(s) appointed by the Title IX Coordinator to conduct the investigation of an alleged violation of this Policy.

### **3.7 REMEDIES**

Individualized services described as supportive measures, below, designed to restore or preserve equal access to the University's education program or activity. Remedies will be provided to a complainant where a determination of responsibility for sexual harassment has been made.

### **3.8 RESPONDENT**

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### **3.9 SEX DISCRIMINATION**

Adverse treatment on the basis of an individual's Sex, including, but not limited to sexual orientation, gender identity, gender expression, sex stereotypes, pregnancy, childbirth, false pregnancies, miscarriages, abortions, or related medical conditions, including recovery in for educational or employment-related decisions. Sex Discrimination also includes Sexual Harassment

### **3.10 SEXUAL HARASSMENT**

Sexual Harassment, as defined by 34 CFR 106.30, is: conduct on the basis of sex that satisfies one or more of the following:

- a. An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- b. 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; or

c. "Sexual assault "[1] as defined in 20 U.S.C. 1092 (f)(6)(A)(v), "dating violence"[2] as defined in 34 U.S.C. 12291(a)(10), "domestic violence"[3] as defined in 34 U.S.C. 12291(a)(8), or "stalking"[4] as defined in 34 U.S.C. 12291(a)(30).

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[1] Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex Offenses, Forcible- Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent. Forcible Rape- (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their temporary or permanent mental or physical incapacity. Forcible Sodomy- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly against that person's will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity. Sexual Assault With An Object- To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity. Forcible Fondling- The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent.

[2] Violence committed by a person- (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; The type of relationship; The frequency of interaction between the persons involved in the relationship.

[3] Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic of family violence laws of the jurisdiction

receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

[4] Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.

### **3.11 TITLE IX COORDINATOR**

The University employee, or their designee, charged with coordinating the University's efforts to comply with the University's responsibilities under Title IX. The Coordinator will ensure the University notifies applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, and employees of the name and title, office address, electronic mailing address, and telephone number of the employee designated as the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator at [titleix.uncg.edu](http://titleix.uncg.edu) or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. Such coordination may include delegating reporting and response tasks to appropriate University designees such as the Title IX Investigator and Dean of Students Office.

## **4. POLICY**

The University prohibits Sex and Gender- Based Harassment and Discrimination, including, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, collectively, "Sexual Harassment." The Sexual Harassment policy and ensuing conduct processes are intended to address student, faculty, and staff misconduct in accordance with UNC Greensboro's community expectations. The University will take prompt and equitable action to eliminate Sexual Harassment, prevent its recurrence, and remedy its effects. The University conducts ongoing prevention, awareness, and training programs for Employees and Students to facilitate the goals of this policy. Further, the University is committed to: (1) fostering a

community in which Sexual Harassment is not tolerated; (2) cultivating a climate where all individuals are well-informed and supported in reporting Sexual Harassment; (3) providing a fair and impartial process for all parties; and (4) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed. Employees or Students who violate this policy may face disciplinary referral to the Office of Student Rights and Responsibilities, Human Resources, or the Office of the Provost.

## **5. PROHIBITED CONDUCT UNDER THIS POLICY**

Regardless of the sex, sexual orientation, and/or gender identity/expression of the complainant or respondent, Sex Discrimination or Sexual Harassment is prohibited under this policy.

## **6. REPORTING SEX DISCRIMINATION & SEXUAL HARASSMENT**

The University urges anyone who becomes aware of an incident of Sex Discrimination or Sexual Harassment to report the incident immediately. The University offers a wide range of resources and reporting options for all students and employees to provide support and guidance in response to any incident of Sex Discrimination or Sexual Harassment. Each of the following reporting options have been trained to support complainants in understanding, assessing, and pursuing their options for support and resolution:

By contacting the University's Title IX Coordinator by telephone, email, or in person during regular office hours on the second floor of the Elliott University Center. See [titleix.uncg.edu](http://titleix.uncg.edu) for up-to-date contact information.

By contacting the University's Dean of Students Office by telephone, email, or in person during regular office hours on the second floor of the Elliott University Center. See [sa.uncg.edu/dean](http://sa.uncg.edu/dean) for up to date contact information.

By contacting the University's Provost or Human Resources Offices by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers. See Human Resources up to date contact information here: [hrs.uncg.edu](http://hrs.uncg.edu) and Provost here: [provost.uncg.edu](http://provost.uncg.edu).

There is no time limit for reporting ex Discrimination or Sexual Harassment 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 complainants, respondents, and witnesses may no longer be affiliated with the

University. If the respondent is no longer a student or an employee, the University may provide reasonably appropriate supportive measures, assist complainants in identifying external reporting options, and take reasonable steps to eliminate ex Discrimination or Sexual Harassment, prevent its recurrence, and remedy its effects, as appropriate.

If complainants would rather not formally report incidents of Sex Discrimination or Sexual Harassment to the University, complainants may still meet with the offices mentioned above to receive supportive measures (see more below) or speak confidentially with the Campus Violence Response Center, Employee Assistance Program, Student Health Center, and Student Counseling Center. Reference [Campus & Community Resources \(https://titleix.wp.uncg.edu/campus-community-resources/\)](https://titleix.wp.uncg.edu/campus-community-resources/) for comprehensive information on accessing University and community resources, including emergency and ongoing assistance; physical health, mental health, and victim-advocacy services; options for reporting Sex Discrimination or Sexual Harassment to the University and/or law enforcement; and available support with academics, housing, and employment.

*Confidentiality.* Should a Student or Employee request their report remain confidential, the University will seek to honor the request to the extent it can do so consistent with its obligation to provide a safe and non-discriminatory learning, living, and working environment for all members of the University community. See Section 7, below, for more information.

For more information related to the procedural steps for investigations, reference [Formal Resolution \(https://titleix.wp.uncg.edu/formal-grievance-process/\)](https://titleix.wp.uncg.edu/formal-grievance-process/) and [Informal Resolution \(https://titleix.wp.uncg.edu/informal-resolution-process/\)](https://titleix.wp.uncg.edu/informal-resolution-process/).

## **6.1 TITLE IX COORDINATOR RESPONSIBILITIES**

The Title IX Coordinator can be contacted by telephone, email, or in person during regular office hours. Up-to-date contact information will be maintained on the website: [titleIX.uncg.edu](https://titleix.uncg.edu). When a report of Sexual Harassment is received by the Title IX Office, the Title IX Coordinator, or their designee, will:

- a. Promptly contact the complainant to discuss the availability of supportive measures, defined below;
- b. Consider the complainant's wishes with respect to supportive measures;
- c. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint;

- d. Explain the process for filing a formal complaint;
- e. Ensure they carry out their responsibilities without a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
- f. Ensure investigators, decision- makers, and any person who facilitates an informal resolution process receives training on the definition, scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; technology to be used at a live hearing; issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and issues of relevance to create an investigative report that fairly summarizes relevant evidence.

## **6.2 SUPPORTIVE MEASURES**

The University offers a wide range of non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter Sex Discrimination and Sexual Harassment. The University will maintain the privacy of any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the protective measures. The Dean of Students Office, Office of Student Rights & Responsibilities, Office of the Provost, and/ or the Office of Human Resources, in consultation with the Title IX Coordinator, have the discretion to impose and/or modify any supportive measure based on all available information, and are available to meet with a complainant or respondent to address any concerns about the provision of supportive measures. Supportive measures will be offered equitably to complainants and respondents. The Title IX Coordinator, in conjunction with other offices will be responsible for coordinating the effective implementation of supportive measures.

Supportive measures may be temporary or permanent and include, but are not limited to: counseling; accompaniment to meetings; mutual no contact orders; modifications to class or work schedules; extensions of deadlines or other course-related adjustments, campus walk safe accompaniment; changes in work or housing locations; leaves of absence; changes in building access; increased security and monitoring of certain areas of the campus.

### **6.3 FORMAL COMPLAINT**

After the Receipt of a Formal Complaint, in addition to the supportive measures already provided, and which will be ongoing, the University will provide the parties with information regarding process options, including both informal resolutions and the formal grievance procedures, explained more fully below.

#### **6.3.1 INITIATING A FORMAL COMPLAINT**

While anyone may report incidents of Sex Discrimination and Sexual Harassment to the University, only a Complainant may submit a Formal Complaint to the Title IX Coordinator. Formal Complaints may be made in person, by mail, or by electronic mail by using the contact information available at [titleix.uncg.edu](https://titleix.uncg.edu) (<https://titleix.wp.uncg.edu/>) or by completing a Maxient Incident Report using the complainant's UNC Greensboro credentials. If a Formal Complaint is a hard copy, the complainant must sign the complaint.

#### **6.3.2 DISMISSAL/ CONSOLIDATION OF A FORMAL COMPLAINT**

*Must Dismiss:* If the conduct alleged in the Formal Complaint (1) would not constitute Sexual Harassment, even if proved, (2) did not occur in UNC Greensboro's education program or activity, or (3) did not occur against a person in the U.S., the Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of sexual harassment. The Title IX Coordinator will send appropriate information to the Office of Student Rights and Responsibilities, Human Resources, or Provost Office for review under provisions of other applicable University policies.

*May Dismiss:* If at any time during the investigation or hearing, (1) a complaint notifies the Title IX Coordinator, in writing, that the complainant would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by UNC Greensboro, or (3) specific circumstances

prevent UNC Greensboro from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein, the Title IX Coordinator may dismiss the Formal Complaint.

*Notice of Dismissal:* If the Title IX Coordinator dismisses a Formal Complaint, the Title IX Coordinator will promptly send written notice of the dismissal, reason(s) therefor, and appellate options simultaneously to the complainant and respondent. A dismissal under this section does not preclude action under another provision of University policy.

*Consolidation:* The Title IX Coordinator may consolidate Formal Complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### 6.3.3 INFORMAL RESOLUTION

Informal resolution is only available after a Formal Complaint is filed. After the filing of a Formal Complaint, at any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process that does not involve a full investigation and adjudication. The University will not require the parties to participate in an informal resolution process and will not offer this informal resolution process unless a formal complaint is filed. Before proceeding, the University will obtain the parties' voluntary, written consent to the informal resolution process. The University will not require the waiver of the right to an investigation and adjudication of formal complaints of Sex Discrimination or Sexual Harassment. Informal resolution is not available to resolve allegations that an employee sexually harassed a student. It is, however, available if there are allegations that a student sexually harassed an employee.

### 6.3.4 Mediation

A process in which the complainant and respondent, using a University-provided mediator(s), attempt to resolve a grievance in a mutually acceptable manner. Complainants will be provided an opportunity to describe the effect of the incident and respondents will be provided an opportunity to describe the intent behind the incident. Responsibility for resolving the grievance rests with the parties.

### 6.3.5 FORMAL RESOLUTION & GRIEVANCE PROCESS

When addressing Formal Complaints of Sex Discrimination or Sexual Harassment that are not dismissed by the Title IX Coordinator or resolved through the Informal Resolution process, the University will employ a formal resolution and grievance process that ensures:

- a. Complainants and respondents are treated equitably by offering supportive measures to both;
- b. Complainants and respondents are treated equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent; and respondent is presumed to not be responsible until a decision maker concludes there is sufficient evidence to support a finding of responsibility;
- c. Remedies are designed to restore or preserve equal access to the educational program and activity;
- d. The appropriate grievance process is followed before the imposition of any disciplinary sanctions or other actions that are not supportive measures;
- e. Complainants and respondents are treated equitably by being permitted to have an advisor of their choice, at their own expense, accompany them to any meeting or proceeding;
- f. Decision makers, adjudicators, and investigators objectively evaluate all relevant evidence- including both inculpatory and exculpatory evidence;
- g. Credibility determinations are not be based on a person's status as a complainant, respondent, or witness;
- h. Appeals are offered equally to both parties from a determination regarding responsibility and from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein.

See more information about [formal resolution and grievance process](https://titleix.wp.uncg.edu/formal-grievance-process/) (<https://titleix.wp.uncg.edu/formal-grievance-process/>) on procedural documents.

#### 6.3.6 SANCTIONS

Where a respondent is found responsible for a violation of this Policy, the decision-maker(s) may recommend any sanctions, including but not limited to required training, written reprimands, and suspension, expulsion, or termination of employment. Sanctions will also include a referral for review and further sanctions in accordance with the respondent's affiliation with the University.

For student respondents, the University official will be the Office of Student Rights and Responsibilities, or their designee, who will sanction in accordance with Section 15: Sanctions of the UNCG Student Code of Conduct.

(<https://osrr.uncg.edu/wp-content/uploads/2019/07/Student-Code-of-Conduct-12-3-18-2.pdf>).

For staff respondents, the University official will be the Associate Vice Chancellor for Human Resources, or their designee, with the respondent's supervisor, who will sanction in accordance with the Disciplinary Action policy.

([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary\\_Actions\\_Suspension\\_Dismissal\\_Policy.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary_Actions_Suspension_Dismissal_Policy.pdf?nocache=1)) for SHRA employees and the EHRA Personnel Policy ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA\\_Non-Faculty\\_Discontinuation\\_of\\_Employment\\_in\\_Covered\\_Positions.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA_Non-Faculty_Discontinuation_of_Employment_in_Covered_Positions.pdf?nocache=1)) or the Personnel Policies for Senior Academic and Administrative Officers ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO\\_Discontinuation\\_of\\_Employment.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO_Discontinuation_of_Employment.pdf?nocache=1)) for EHRA Non-faculty employees.

For faculty respondents, the University official will be the Executive Vice Chancellor and Provost, or their designee, with the respondent's Dean, who will sanction in accordance with the Promotion, Tenure, Academic Freedom, and Due Process Regulations.

([https://drive.google.com/file/d/0B3\\_J3Uix1B4UWjIQYWhodDdvaDA/view](https://drive.google.com/file/d/0B3_J3Uix1B4UWjIQYWhodDdvaDA/view)).

### 6.3.7 REMEDIES

Where a respondent is found responsible for a Policy violation, the decision-maker(s) may recommend any remedies including, but not limited to, changes to work or housing assignments, campus accompaniment services, no-contact orders, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Remedies, unlike supportive measures, may be punitive or disciplinary and need not avoid burdening the respondent. The Title IX Coordinator, or their designee, will be responsible for the effective implementation of the remedies.

### 6.3.8 ACCEPTANCE OF RESPONSIBILITY

At any time during the formal grievance process, a respondent may elect to schedule a conference with either the Office of Student Rights & Responsibilities, Human Resources, or Provost's Office, depending on the respondent's affiliation with the University. During the conference, the respondent will have an opportunity to discuss the incident and alleged policy violation(s) with the administrator. The conference allows the respondent to ask questions, accept or deny responsibility of the alleged policy violation, and make decisions about how they intend to proceed with their case. Should the respondent elect to take responsibility for the alleged policy violation(s), the administrator may sanction the respondent and the grievance process will be resolved. Should the respondent deny responsibility for the alleged policy violation(s), the grievance process will continue.

#### 6.3.9 EMERGENCY REMOVAL/ ADMINISTRATIVE LEAVE

In conjunction with the Title IX Office, Office of Student Rights & Responsibilities, Human Resources, and/or the Provost's Office, a respondent may be removed from an educational activity or program on an emergency basis following the undertaking of an individualized safety and risk analysis and determination that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sex Discrimination or Sexual Harassment justifies removal. The respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal, consistent with the Student Code of Conduct, Employee, and Faculty grievance procedures.

#### 6.3.10 RETALIATION

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured under this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve Sex Discrimination or Sexual Harassment, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a University policy violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation, provided that a determination regarding responsibility, for allegations in the underlying grievance proceeding, in and of itself, is not sufficient to conclude that any part made a materially false statement in bad faith.

## **7. OTHER PROCEDURAL NOTES**

### **7.1 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 is also committed to providing assistance to help Students and Employees 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 Sex Discrimination or Sexual Harassment, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings:

#### **7.1.1 Privacy.**

*Privacy* means that information related to a report of Sex Discrimination or Sexual Harassment 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 Sex Discrimination and Sexual Harassment 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. §126-23 *et seq.* and N.C. Gen. Stat. §132-1 *et seq.*

#### **7.1.2 Confidentiality.**

*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 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, confidential information may be disclosed when:

- the individual gives written consent for its disclosure;
- someone is clearly likely to do physical harm to themselves or another person in the near future;
- information is shared about currently occurring abuse or neglect of a child or dependent adult; or
- ordered to do so by a judge as part of judicial proceedings.

When a student or employee requests their report remain confidential, the University will seek to honor the request to the extent it can do so consistent with its obligation to provide a safe and non-discriminatory learning, living, and working environment for all members of the University community. Requests for confidentiality, however, may inhibit the University’s ability to investigate and pursue formal disciplinary measures because fundamental fairness and due process principles require that a Respondent know the details of the allegations made against them, to the extent the details are known, to provide adequate opportunity for the Respondent to respond.

## **7.2 LEGALLY- RECOGNIZED PRIVILEGES**

The Formal Resolution Process does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

## **7.3 AMNESTY POLICY**

The University will not pursue disciplinary action against Complainants or witnesses for disclosure of illegal personal consumption of drugs or alcohol where such disclosures are made in connection with a good faith report or investigation of Sex Discrimination or Sexual Harassment.

## **7.4 EMPLOYEE RESPONSIBILITY TO REPORT INFORMATION ABOUT SEXUAL HARASSMENT**

An Employee's responsibility to report incidents of Sexual Harassment is governed by this policy. UNC Greensboro believes that students and employees may benefit from having options to disclose sexual harassment to University employees who may keep the disclosure confidential or not have to formally report it to the University. Under this Policy, every Employee is encouraged to report incidents of Sexual Harassment, however, some employees will be designated as either a "Confidential Employee," or an "Official with Authority" (<https://titleix.wp.uncg.edu/employee-reporting-obligations/>). Employees are expected to be clear with a reporter about what they plan to do with any information disclosed to them. Most University employees will not be categorized as either confidential or as an official with authority. Therefore, most employees can empower reporters to decide on a course of action related to the disclosure.

### **7.4.1 Confidential Employee.**

A "Confidential Employee" is (1) 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), when acting in that professional role in the provision of services to a patient who is a Student or an Employee ("health care providers"); or (2) any Employee providing administrative, operational and/or related support for such health care providers in their performance of such services; or (3) any Employee explicitly designated as Confidential by the University. A Confidential Employee will not disclose information about Sex Discrimination or Sexual Harassment to the University's Title IX Coordinator without permission of the Reporting Party (subject to their individual licensure exceptions).

### **7.4.2 Official with Authority.**

An "Official with Authority" is any employee who UNC Greensboro designates as an official with authority to institute corrective measures on behalf of the University. Deans, Associate Deans, Directors, Associate Directors, and Coaches, for example, are designated as "Officials with Authority". Only when an "Official

with Authority” is aware of an incident of Sexual Harassment will the University have actual knowledge. As defined in the Title IX Final Rule, Actual Knowledge means notice of sexual harassment or allegations of sexual harassment to the University Title IX Coordinator or any University official who has the authority to institute corrective measures.

Please reference [titleix.uncg.edu](https://titleix.uncg.edu) for an updated list of confidential employees and officials with authority (<https://titleix.wp.uncg.edu/employee-reporting-obligations/>).

## **7.5 VIOLATIONS OF LAW**

Behavior that violates this policy may also constitute a crime under the laws of the jurisdiction in which the incident occurred. For example, North Carolina criminalizes and punishes some forms of Sexual Assault, Sexual Exploitation, Stalking, and Physical Assault. The criminal statutes that may apply in cases of Physical Assault and Stalking are found in various sections of N.C. General Statute Chapter 14, Articles 8 (Assaults), 35 (Stalking), and 26 (Cyberstalking, Sexual Exploitation). The criminal statutes relating to Sexual Assault are found in Article 7 (Rape and Kindred Offenses). Finally, Intimate Partner Violence crimes are found in Chapter 50B. This compilation of criminal statutes is not exhaustive, but is offered to notify the University community that, some forms of Sexual Harassment may also constitute crimes under North Carolina state law, which may subject a person to criminal prosecution and punishment in addition to any sanctions under this policy.

## **7.6 COORDINATION WITH LAW ENFORCEMENT**

The Title IX Office will contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the request of law enforcement, the Title IX Office may delay the University investigation temporarily (up to ten (10) days) while an external law enforcement agency is gathering evidence. The Title IX Office will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

## **7.7 PRESUMPTION OF NON-RESPONSIBILITY AND PARTICIPATION BY THE PARTIES**

The investigation is a neutral, fact-gathering process. The respondent is presumed to be not responsible; this presumption may be overcome only where the decision maker(s) and/or Hearing Panel conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the respondent violated the Policy. Neither party is required to participate in the investigation or in any form of resolution under these Procedures, and the Investigator(s) will not draw any adverse inference from a decision by either of the parties not to participate.

## **7.8 PRIOR SEXUAL HISTORY**

The sexual history of complainant or respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Consent was sought and given during the incident in question. However, even in the context of a relationship, Consent to one sexual act does not, by itself, constitute Consent to another sexual act, and Consent on one occasion does not, by itself, constitute Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. Finally, questions and evidence about the complainant's prior sexual behavior may be offered to prove that someone other than the respondent committed the conduct alleged by the complainant. The investigator and/or decision maker(s) will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

## **7.9 OBLIGATION TO REPORT TRUTHFUL INFORMATION**

All University community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Sex Discrimination or Sexual Harassment is prohibited and subject to disciplinary sanctions under the University's policies and disciplinary action under the appropriate Employee

disciplinary policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

#### **7.10 EXPERT CONSULTATION**

The Title IX Office and decision maker(s) may consult and/or coordinate consultation for decision makers for medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. Neither Reporting Parties nor Respondents will be allowed to offer expert testimony or expert witnesses at any stage of the resolution process.

#### **7.11 RELEVANCE**

The Investigator(s), Office of Student Rights & Responsibilities, Office of the Provost, Human Resources, and Hearing Chair have the responsibility to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator(s) will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character evidence.

### **8. RECORD RETENTION**

The University will maintain the following records in accordance with the UNC System Records Retention Schedule and for no less than seven (7) years:

- a. Records of each Sex Discrimination or Sexual Harassment investigation including any determination regarding responsibility;
- b. Any audio or audiovisual recording or transcript from the hearings;
- c. Records of any disciplinary sanctions imposed on the respondent;
- d. Records of any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;
- e. Records of any appeal and the result therefrom;
- f. Records of any informal resolution and the result therefrom;
- g. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Sex Discrimination or Sexual Harassment;
- h. Records of the basis for the University's conclusion that its response to a report was not deliberately indifferent;
- i. Records that document that the University has taken the measures designed to restore or preserve equal access to the University's education program or activity;

- j. Records that document the reasons the University did not provide a complainant with supportive measures and why doing so would have been clearly unreasonable in light of the known circumstances.
- k. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

## **9. OTHER FORMS OF DISCRIMINATORY AND/OR HARASSING CONDUCT**

If a report of Sex Discrimination or Sexual Harassment also implicates other forms of discriminatory and/or harassing conduct prohibited by the University policy, the Title IX Coordinator, in consultation with other appropriate Administrators, will evaluate all reported allegations to determine whether the alleged Sex Discrimination or Sexual Harassment and the alleged violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Sex Discrimination or Sexual Harassment. Where the Title IX Coordinator, in consultation with the Office of Student Rights & Responsibilities, Office of the Provost, and/or the Office of Human Resources determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the applicable policy, but the investigation and resolution will be conducted in accordance with these Procedures.

## **10. NCAA SERIOUS MISCONDUCT ATTESTATION**

Pursuant to the NCAA Board of Governors Policy on Campus Sexual Violence, all NCAA Student-athletes must disclose any conduct that resulted in discipline through either a Title IX proceeding or in a criminal conviction for sexual, interpersonal, or other acts of violence. Transfer student-athletes must also disclose whether a Title IX proceeding was incomplete at the time of transfer. Failure to make a full and accurate disclosure could result in penalties, including loss of scholarship, inability to participate in athletics, and retraction of admission. Student-athletes with serious misconduct offenses may also be subject to penalties, at the discretion of the University.

## **11. PREVENTION AND AWARENESS PROGRAMS**

The University is committed to the prevention of Sex Discrimination and Sexual Harassment through regular and ongoing education and awareness programs. Incoming Students and new Employees receive primary prevention and awareness

programming as part of their orientation and returning Students and current Employees receive ongoing training and related education.

## **12. TRAINING**

The University provides training to Students and Employees to ensure they understand this policy and the topics and issues related to maintaining an education and employment environment free from harassment and discrimination.

Additionally, as mentioned above, the University ensures all Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receives training on the definition, scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; technology to be used at a live hearing; issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Appropriate training materials will be made publicly available at [titleix.uncg.edu](http://titleix.uncg.edu).

## **13. APPROVAL AND REVISION OF SUPPORTING DOCUMENTS**

Supporting Documents are initially developed, revised, and approved as part of development, revision, and approval of this Policy, but may also be separately revised and/or updated without additional review by the Chancellor's Council and/or approval by the Chancellor or Board of Trustees, in the discretion of the Policy Administrator and/or the Chancellor.

## **14. ENFORCEMENT**

The Chancellor's Office, Office of the Provost, Human Resources, Office of Student Rights & Responsibilities, and Title IX Office, in cooperation with other University administrators, will enforce this Policy, and establish standards, procedures, and protocols in support of the policy.

Any violation of this Policy by a University student, staff, or faculty member will be governed by this Policy and may be subject to additional disciplinary action in accordance with either the Student Code of Conduct; SHRA disciplinary action policy; the EHRA employment policies or the UNC Greensboro Academic Freedom,

Tenure and Due Process Regulations. For a description of the University's procedures, see [Formal Resolution and Grievance Process](https://titleix.wp.uncg.edu/formal-grievance-process/) (<https://titleix.wp.uncg.edu/formal-grievance-process/>).

## **15. POLICY REVIEW**

This policy is maintained by the Title IX Coordinator and the Office of the General Counsel. 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.

## **16. POLICY PUBLICATION AND DISSEMINATION**

This Policy is published on the University Policy Manual Website that is maintained by the University Policy Administrator. The Policy Administrator will ensure that notification regarding approval of new or revised policies is disseminated via email or another standard form of campus-wide communication.

Additionally, this notice of non-discrimination and the Title IX Coordinator's contact information will be posted on the University website to ensure that such notification is extended applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, and employees.

## **17. ADDITIONAL INFORMATION**

### **17.1 SUPPORTING DOCUMENTS**

United States Department of Education "The Final Rule":

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>  
(<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>)

United States Equal Employment Opportunity Commission "Title VII of the Civil Rights Act of 1964": <https://www.eeoc.gov/laws/statutes/titlevii.cfm>  
(<https://www.eeoc.gov/laws/statutes/titlevii.cfm>)

North Carolina Criminal Code including Rape and Other Sex Offenses:

<http://www.ncga.state.nc.us/gascripts/statutes/statutestoc.pl?Chapter=0014>  
(<http://www.ncga.state.nc.us/gascripts/statutes/statutestoc.pl?Chapter=0014>)

### **17.2 RELATED POLICIES AND RESOURCES**

Student Code of Conduct: <http://sa.uncg.edu/handbook/student-code-of-conduct/> (<http://sa.uncg.edu/handbook/student-code-of-conduct/>).

Disciplinary Action Policy:

[https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary\\_Actions\\_Suspension\\_Dismissal\\_Policy.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary_Actions_Suspension_Dismissal_Policy.pdf?nocache=1) ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary\\_Actions\\_Suspension\\_Dismissal\\_Policy.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Disciplinary/Disciplinary_Actions_Suspension_Dismissal_Policy.pdf?nocache=1))

University SHRA Grievance Policy:

[https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee\\_Relations/University\\_SHRA\\_Grievance\\_Policy.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee_Relations/University_SHRA_Grievance_Policy.pdf?nocache=1) ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee\\_Relations/University\\_SHRA\\_Grievance\\_Policy.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee_Relations/University_SHRA_Grievance_Policy.pdf?nocache=1))

Appeal Guidelines for Designated Exempt Employees EPA-Non-Faculty:

[https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee\\_Relations/Appeal\\_Guidelines\\_for\\_Designated\\_EHRA-NF\\_Employees.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee_Relations/Appeal_Guidelines_for_Designated_EHRA-NF_Employees.pdf?nocache=1) ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee\\_Relations/Appeal\\_Guidelines\\_for\\_Designated\\_EHRA-NF\\_Employees.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Employee_Relations/Appeal_Guidelines_for_Designated_EHRA-NF_Employees.pdf?nocache=1))

Promotion, Tenure, Academic Freedom, and Due Process Regulations for Faculty:

<http://provost.uncg.edu/documents/personnel/tenure.pdf>  
(<http://provost.uncg.edu/documents/personnel/tenure.pdf>)

Personnel Policies for Senior Academic and Administrative Officers:

[https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO\\_Discontinuation\\_of\\_Employment.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO_Discontinuation_of_Employment.pdf?nocache=1) ([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO\\_Discontinuation\\_of\\_Employment.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/SSAO_Discontinuation_of_Employment.pdf?nocache=1))

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies:

[https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA\\_Non-Faculty\\_Discontinuation\\_of\\_Employment\\_in\\_Covered\\_Positions.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA_Non-Faculty_Discontinuation_of_Employment_in_Covered_Positions.pdf?nocache=1)

([https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA\\_Non-Faculty\\_Discontinuation\\_of\\_Employment\\_in\\_Covered\\_Positions.pdf?nocache=1](https://hrs.uncg.edu/wp-content/themes/uncgwp/Files/Policies/Separation/EHRA_Non-Faculty_Discontinuation_of_Employment_in_Covered_Positions.pdf?nocache=1))

University Policy on Discriminatory Conduct:

[https://policy.uncg.edu/university-policies/discriminatory\\_conduct/](https://policy.uncg.edu/university-policies/discriminatory_conduct/)  
([https://policy.uncg.edu/university-policies/discriminatory\\_conduct/](https://policy.uncg.edu/university-policies/discriminatory_conduct/))

Unlawful Workplace Harassment Policy and Plan:

[https://policy.uncg.edu/university-policies/unlawful\\_workplace\\_harassment/](https://policy.uncg.edu/university-policies/unlawful_workplace_harassment/)  
([https://policy.uncg.edu/university-policies/unlawful\\_workplace\\_harassment/](https://policy.uncg.edu/university-policies/unlawful_workplace_harassment/))

Clery Compliance: <http://clery.uncg.edu> (<http://clery.uncg.edu>)

UNC System Records Retention Schedule:

<https://archives.ncdcr.gov/documents/university-north-carolina-general-records-retention-and-disposition-schedule>  
(<https://archives.ncdcr.gov/documents/university-north-carolina-general-records-retention-and-disposition-schedule>)

Federal Education Rights and Privacy Act (FERPA):

<http://sa.uncg.edu/dean/parents/ferpa/>  
(<http://sa.uncg.edu/dean/parents/ferpa/>) & <https://reg.uncg.edu/policies/ferpa/>  
(<https://reg.uncg.edu/policies/ferpa/>)

### **17.3 APPROVING AUTHORITY**

Chancellor

### **18. CONTACT**

Please contact the Title IX Coordinator for any comments or questions related to this Policy. Contact information may be found: [titleix.uncg.edu](http://titleix.uncg.edu)  
(<https://titleix.wp.uncg.edu/>)

### **19. CONCERNS**

Concerns about the University's application of Title IX may be addressed to the Title IX Coordinator and/or to the United States Department of Education, Office for Civil Rights at [OCR@ed.gov](mailto:OCR@ed.gov) (<mailto:OCR@ed.gov>) or (800) 421-3481.

## **REVISIONS**

**Revision****Date****Revision Summary**

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08/10/2020 Replaced Policy on Sexual and Gender-Based Harrassment, Sex Discrimination, and Other Forms of Interpersonal Violence

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08/22/2022 Revised to recognize resources and support for pregnant and parenting students; and to be consistent with Policy template

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- Title IX Policy. Retrieved 11/19/2022. Official version at [https://policy.uncg.edu/university\\_policies/title-ix-policy/](https://policy.uncg.edu/university_policies/title-ix-policy/). Copyright © 2022  
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