



PROCEDURES FOR REPORTS AGAINST STUDENTS

INVESTIGATING AND RESOLVING REPORTS OF SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE COMMITTED BY STUDENTS UNDER THE REGULATION

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1. Introduction

- 1.1. East Carolina (the “University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. The University prohibits Sexual Assault, Offensive Touching, Sexual Exploitation, Dating and Domestic Violence, Stalking, Sexual or Gender-Based Harassment, Complicity in the Commission of any act prohibited by the Regulation and related Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in the [University's Regulation on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence](#) (the “Regulation”). This Appendix identifies the procedures (the “Procedures”) the University follows when it receives a report alleging Prohibited Conduct by a Student. The University uses these Procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against Students found responsible for violating the Regulation.¹
- 1.2. Please see Appendix B for Procedures the University follows when it receives a report alleging Prohibited Conduct by an Employee, including faculty, staff, and administrators. Please see the Regulation for addressing reports alleging Prohibited Conduct by an individual who is not a student or employee.

2. Reporting

- 2.1. The University encourages anyone² who experiences or learns of Prohibited Conduct and requires Responsible Employees who become aware of an incident of Prohibited Conduct involving an Employee or student to **immediately** report the incident to the University through any of the following reporting options:
 - 2.1.1. By contacting the University’s Title IX Coordinator, by telephone, email, or in person during regular office hours:

LaKesha Alston Forbes, Title IX Coordinator
Office for Equity and Diversity
Old Cafeteria Building Suite G-406
Phone: (252) 328-6804
Email: oad@ecu.edu
 - 2.1.2. By filing an online complaint form with the Office for Equity and Diversity at <http://www.ecu.edu/oad/grievance-form.cfm>;
 - 2.1.3. Through ECU Cares, the University’s reporting mechanism, at www.ecu.edu/ecucares or (252) 737-5555 and press #3. Anonymous reporting is permissible.
- 2.2. An SHRA employee may also choose to file any complaints of Sexual and Gender based Harassment, Sexual Assault, Offensive Touching, Sexual Exploitation and related retaliation in accordance with ECU’s Mediation and Grievance Procedure for SHRA

¹ These Procedures should be read in conjunction with the Regulation. Capitalized terms used and not otherwise defined in these Procedures are defined in the Regulation. For purposes of these Procedures, the following definitions apply: (1) the “Title IX Coordinator” means the Title IX Coordinator, Senior Deputy Title IX Coordinator, and/or any of their respective trained designees; and (2) “Human Resources” means University Human Resources, and/or the Human Resources professional in a particular school/department/unit.

² Pursuant to University policy, certain University employees, called “Responsible Employees,” are *required* to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See “[Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct](#).”

Employees (Regulation 06.35.02), as outlined in Paragraph 6 below.

- 2.3. A Complainant, as defined in the Regulation, may choose to make a report to the University to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the Regulation, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:
 - 2.3.1. Call 911 (for emergencies);
 - 2.3.2. ECU Police Department ((252) 328-6787) (for non-emergencies);
 - 2.3.3. Greenville Police Department ((252) 329-4315) for non-emergencies);
 - 2.3.4. Pitt County Sheriff's Office ((252) 902-2800) (for non-emergencies).
- 2.4. The University also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. The following guides identify confidential resources, both at the University and in the Greenville community, and further explain options for reporting Prohibited Conduct to the University and to law enforcement:
 - 2.4.1. Students may refer to the [Resource and Reporting Guide for Student Reporting Incidents of Prohibited Conduct](#) and the [Resource and Reporting Guide for Students Accused of Incidents of Prohibited Conduct](#) (Appendixes A-1 and A-2);
 - 2.4.2. Employees may refer to the [Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct](#) and [Resource and Reporting Guide for Employees Accused of Incidents of Prohibited Conduct](#) (Appendix B-1 and B-2);
 - 2.4.3. Third Parties may contact the Title IX Coordinator.
- 2.5. Complainants are entitled to receive information, assistance and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or University resolution of Prohibited Conduct. Respondents are also entitled to receive information, assistance and a broad range of support and remedial measures. The Student and Employee Resource Guides, as referenced in Section 2.4 above, outline these resources and remedial measures and describe how to request them.

3. Expectations of Complainants and Respondents

- 3.1. Pursuant to these Procedures, Complainants and Respondents (either of whom is a “party” and collectively, “the parties”) can expect:
 - 3.1.1. Equitable resolution of allegations of Prohibited Conduct as promptly as possible;
 - 3.1.2. Privacy in accordance with the Regulation and any legal requirements;
 - 3.1.3. Reasonably available interim remedial and protective measures, as described in these Procedures and in the applicable Resource Guide;
 - 3.1.4. Freedom from Retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under this Regulation;
 - 3.1.5. The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Regulation;

- 3.1.6. The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Regulation or these Procedures;
- 3.1.7. The opportunity to articulate concerns or issues about proceedings under the Regulation and these Procedures;
- 3.1.8. Timely notice of any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- 3.1.9. The right to be represented, at the party's expense by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1.1[R];
- 3.1.10. Written notice of an investigation, including notice of potential Regulation violations and the nature of the Prohibited Conduct;
- 3.1.11. The opportunity to challenge the Investigator or any member of the Hearing Board for bias or conflict of interest;
- 3.1.12. The opportunity to offer relevant information, present relevant evidence, and identify witnesses during an investigation;
- 3.1.13. The opportunity to be heard, orally and/or in writing, as to the determination of a Regulation violation and the imposition of any sanction(s) and the opportunity to challenge or question adverse evidence;
- 3.1.14. Timely and equal access, as permitted by applicable law, to any information that will be used during Alternative Resolution or Formal Resolution proceedings and related meetings;
- 3.1.15. Reasonable time to prepare any response contemplated by these Procedures;
- 3.1.16. Written notice of any extension of timeframes for good cause;
- 3.1.17. Written notice, as permitted and/or required by applicable law, of the outcome of any Formal Resolution proceedings, including the determination of any Policy violation, imposition of any sanction(s), and the rationale for each. The Complainant will only receive information regarding the imposition of any sanction(s) as it relates to the Complainant; and
- 3.1.18. To receive written notice of appeal rights.

4. Initial Assessment

- 4.1. Upon receipt of a report of Prohibited Conduct committed by a Student, the Sexual Misconduct Response Team ("SMRT") will make an initial assessment of the reported information to respond to any immediate health or safety concerns raised by the report and to determine whether there is reasonable cause to believe a policy violation could have occurred such that an investigation is warranted. An allegation of Prohibited Conduct will be investigated regardless of any SMRT determination if investigation is recommended by the Title IX Coordinator or designee.
- 4.2. Sexual Misconduct Response Team
 - 4.2.1. SMRT is co-chaired by a representative of the Office for Equity and Diversity and a representative from the Dean of Students Office.
 - 4.2.2. The purpose of SMRT will be to assess the immediate resource needs of the Complainant(s) and Respondent(s), recommend any corrective actions needed to

address campus environmental concerns, monitor reports for any patterns or trends, determine whether there is reasonable cause to conclude that a violation of policy could have occurred and, if so, initiate an investigation. SMRT will refer conclusions on any patterns or trends to the Division of Student Affairs for utilization in the development and presentation of prevention and awareness efforts.

4.2.3. SMRT will evaluate every report of Prohibited Conduct by a student. The SMRT convenes (in person, by telephone, or by videoconference) weekly or as needed to review information received from a report of Prohibited Conduct, as described above, and to review new, relevant information as it becomes available. As determined by the co-chairs, SMRT may include select members of the University Behavioral Concerns Team (“UBCT”) and shall include, at a minimum: (1) the Title IX Coordinator or his/her designee, (2) the assigned investigator, (3) a representative of the Office of Student Rights and Responsibilities (“OSRR”), (4) a representative of the ECU Police Department (the “ECUPD Representative”), (5) a representative from the Dean of Student’s Office, and (6) the University’s Clery Compliance Officer, A representative of the Office of University Counsel will serve as an advisor to the SMRT. In addition, the SMRT may include a representative from Campus Living, the Counseling Center, or Student Health Services depending on the circumstances of the reported incident and the status of the Complainant and the Respondent.

4.2.4. SMRT has access to available University records, which may otherwise be confidential, including University disciplinary, academic and/or personnel records. SMRT may seek additional information about the reported incident through any other legally permissible means.

4.2.5. In its initial assessment, the SMRT will confirm the parties have (as applicable):

- 4.2.5.1. Been assessed for their safety and well-being and offered the University’s immediate support and assistance;
- 4.2.5.2. Been informed of their right to seek medical treatment, and explained the importance of obtaining and preserving forensic and other evidence;
- 4.2.5.3. Been informed of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- 4.2.5.4. Been informed of the University’s and community resources, the right to seek appropriate and available remedial and interim protective measures, and how to request those resources and measures;
- 4.2.5.5. Received a written explanation of all available resources and options and are offered the opportunity to meet to discuss those resources and options;
- 4.2.5.6. Been informed of the University’s Alternative or Formal Resolution options under these Procedures; ascertained the Complainant’s expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Alternative Resolution, Formal Resolution, or neither; and confirmed each of the parties has had the opportunity to discuss any concerns or barriers to participating in any University investigation and resolution under these Procedures;
- 4.2.5.7. Been explained the University’s prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;

4.2.6. Additionally, the SMRT will:

- 4.2.6.1. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident and whether there is reasonable cause to conclude that a violation of University Policy could have occurred;
- 4.2.6.2. Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), insure the Title IX Coordinator or designee contacts the appropriate child protective service agency; and
- 4.2.6.3. Communicate with appropriate University officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

4.2.7. If the SMRT and/or the assigned investigator, in consultation with the Title IX Coordinator or designee, decides to implement interim protective measures, to initiate an investigation or to take any other action under these Procedures that impacts a Respondent (including the imposition of interim protective measures), the assigned investigator will ensure that the Respondent is notified, receives a written explanation of all available resources, options and rights under the Regulation, and is offered the opportunity to meet to discuss those resources, options, and rights with appropriate ECU officials. In cases of interim suspension from the University, OSRR will ensure the Respondent is notified and receives a written explanation including information on how to appeal the decision.

5. Health and Safety Threat Assessment

5.1. Following or simultaneous to the initial assessment, the SMRT will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the involved students or to any other member of the University community. If warranted, the SMRT will forward individuals of concern to the UBCT for further assessment. The SMRT will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors (the “Risk Factors”):

- 5.1.1. Whether the student(s) have prior relevant arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- 5.1.2. Whether the student(s) have a history of failing to comply with any University No-Contact Directive, other University protective measures, and/or any judicial protective order;
- 5.1.3. Whether the student(s) have threatened to commit violence or any form of Prohibited Conduct;
- 5.1.4. Whether the alleged Prohibited Conduct involved multiple students;
- 5.1.5. Whether the alleged Prohibited Conduct involved physical violence. “Physical violence” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking,

- restraining, choking, pushing, and brandishing or using any weapon;
- 5.1.6. Whether the report suggests a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
 - 5.1.7. Whether the alleged Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
 - 5.1.8. Whether the alleged Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring;
 - 5.1.9. Whether the alleged Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18);
 - 5.1.10. Whether any evidence of other aggravating circumstances or signs of predatory behavior or mitigating circumstances are present; and/or
 - 5.1.11. Whether either party has presented with evidence of suicidal ideation.

5.2. University Actions Following Health and Safety Threat Assessment

5.2.1. Upon completion of the health and safety threat assessment, the Title IX Coordinator and/or the assigned investigator, in consultation with SMRT, will determine the course of action under these Procedures, which may include, without limitation, Formal Resolution and/or Alternative Resolution (if available). Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Investigator, in consultation with SMRT, will seek to honor the preferences of the Complainant wherever possible. In all cases, the initial report, the health and safety threat assessment, and the determinations of the SMRT will be documented and retained by the University in accordance with applicable law.

5.2.2. **Where the Complainant Wishes to Pursue Formal Resolution.** In every case in which a Complainant reports Prohibited Conduct and requests an investigation the Title IX Coordinator and/or the assigned investigator will promptly initiate Formal Resolution, as outlined below, if there is reasonable cause to conclude a violation of University Policy could have occurred.

5.2.3. **Where the Complainant Requests Anonymity, and/or that an Investigation not be Pursued.** A Complainant may request that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued. The Title IX Coordinator and/or the assigned investigator will explain to the Complainant that University’s ability to meaningfully investigate and respond to a report may be limited, and that the University may not be able to honor such a request and still provide a safe and nondiscriminatory environment for all students and employees.

5.2.3.1. The SMRT will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any Risk Factors, as described in Paragraph 5 of these Procedures; (3) the potential impact of such action(s) on the Complainant; (4) any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct; (5) the existence of any independent information or evidence regarding the Prohibited Conduct; and (6) any other available and

relevant information. The University will seek to honor the Complainant's request(s) if it is possible to do so while also addressing the health and safety of the Complainant and the University community.

5.2.3.2. Determination that a Complainant's Request(s) Can be Honored.

Where the Title IX Coordinator and/or the assigned investigator determines that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued) can be honored, the University may nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances as a form of Alternative Resolution. At any point, the Complainant may choose to pursue Alternative Resolution (if available) or Formal Resolution under these Procedures. The Title IX Coordinator or designee also may request that a report be re-opened and pursued under these Procedures if any new or additional relevant information becomes available.

5.2.3.3. Determination that a Complainant's Request(s) Cannot be Honored.

Where the SMRT and/or the Title IX Coordinator or designee has determined that a Complainant's request(s) (that personally- identifying information not be shared with the Respondent, and/or that no investigation be pursued) cannot be honored (i.e., because honoring the Complainant's request(s) would impede the University's ability to ensure the health and safety of the Complainant and other members of the University community), the SMRT and/or the Title IX Coordinator or designee will take any appropriate University actions, which may include, without limitation, (i) the imposition of a No- Contact Directive and/or; (ii) the initiation of an investigation and Formal Resolution under these Procedures; (iii) the arrangement, imposition, or extension of any other appropriate remedial and/or protective measures; and/or (iv) the imposition of an administrative suspension pending the investigation and adjudication of the Prohibited Conduct.

Where the SMRT and/or the Title IX Coordinator or designee has determined that the University must proceed with an investigation despite a Complainant's request to the contrary, the University will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of the University's investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator and/or assigned investigator will notify the Complainant that the University intends to proceed with an investigation, and that the Complainant is encouraged but not required to participate in the investigation or in any other actions undertaken by the University.

Where a Complainant declines to participate in an investigation, the University's ability to meaningfully investigate and respond to a report may be

limited. In such cases, the Title IX Coordinator and/or assigned investigator may pursue the investigation if it is possible to do so without the Complainant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct). In the absence of such other evidence, however, the University will only be able to respond to the report in limited and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

5.3. Notice to Complainant and Respondent of University Actions

5.3.1. The assigned investigator will promptly inform the Complainant of any action(s) undertaken by the University to respond to a health or safety threat to the Complainant or the University community, including the decision to proceed with an investigation. The assigned investigator also will promptly inform the Respondent of any action(s), excluding interim suspension from the University (where the Respondent will be informed by OSRR), (including any interim protective measures) that will directly impact the Respondent, and provide an opportunity for the Respondent to respond to such action(s). The Title IX Coordinator and/or the SMRT retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect through resolution of the report by the appropriate University executive, unless new circumstances arise which warrant reconsideration of the protective measures.

6. University Resolution

6.1. These Procedures offer two forms of resolution of reports of Prohibited Conduct against a student: (1) Alternative Resolution (as described in Paragraph 6.1 of these Procedures), which includes a variety of informal options for resolving reports, and (2) Formal Resolution (as described in Paragraph 6.2 of these Procedures), which involves an investigation and findings of responsibility (if any), a Board Hearing to determine sanction (if applicable) and/or hear a contest of the findings, and a possible appeals to the Vice Chancellor for Student Affairs, the ECU Board of Trustees and the UNC Board of Governors (as described in Paragraph 6.2.5 of these Procedures).

6.2. An SHRA employee may choose to file any complaints of Sexual and Gender based Harassment, Sexual Assault, Offensive Touching, Sexual Exploitation and related retaliation in accordance with ECU's Mediation and Grievance Procedure for SHRA Employees (Regulation 06.35.02). In the event the complaint is filed within fifteen (15) business days after the incident covered by Regulation 06.35.02 and the SHRA employee wishes to retain their appeal rights under Regulation 06.35.02, the SHRA employee may pursue remedies provided in Regulation 06.35.02 in addition to these procedures. Regulation 06.35.02 does not cover Intimate Partner Violence, Stalking, Dating or Domestic Violence, Complicity and related Retaliation. Any complaints of Prohibited Conduct brought by a SHRA employee not covered by Regulation 06.35.02 or not filed within 15 business days of the incident will be processed solely according to these

Procedures.

6.3. At any time, a complaint may be filed with the U.S. Equal Employment Opportunity Commission (<http://www.eeoc.gov>), U.S. Department of Education's Office of Civil Rights (<http://www2.ed.gov/about/offices/list/ocr/index.html>), or the North Carolina Civil Rights Division of the Office of Administrative Hearings (<http://www.oah.state.nc.us/civil>) as applicable.

6.4. Alternative Resolutions

6.4.1. The University, through Title IX Coordinator and/or SMRT, has the discretion to determine the nature of the reported conduct is not appropriate for Alternative Resolution, to limit the type of Alternative Resolution that may be appropriate in a specific case and, pursuant to Paragraph 6.2 of these Procedures, to refer a report for Formal Resolution at any time. In addition, Alternative Resolution may not be available where the SMRT has determined that one or more of the Risk Factors listed in Paragraph 5 of these Procedures is present. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available in cases involving Sexual Assault, or Sexual Harassment where there is a power differential between the Complainant and Respondent, and related Retaliation.** The Title IX Coordinator and/or the assigned investigator will maintain information about Alternative Resolution availability and provide that information to any party to a complaint upon request.

6.4.2. If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator and/or the assigned investigator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these Procedures.

6.4.3. The Office for Equity and Diversity will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within thirty (30) business days, from the date the Complainant elects to pursue an Alternative Resolution.

6.5. Formal Resolution

6.5.1. Formal Resolution is commenced when the SMRT determines that there is reasonable cause to conclude a violation of University Policy may have occurred and:

6.5.1.1. A Complainant reports that a Student has engaged in one or more instances of Prohibited Conduct and requests an investigation, either at the time of the report or at some time thereafter; or

6.5.1.2. Attempts at Alternative Resolution fail or do not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator's discretion, an investigation of the report of Prohibited Conduct is required; or

6.5.1.3. At the conclusion of the threat assessment process described in Paragraph 5 of these Procedures, the SMRT has determined, based upon a review of the

totality of the circumstances and guided by a consideration of the Risk Factors, that investigation of the reported Prohibited Conduct is necessary to ensure the health and safety of the Complainant and/or other members of the University community, notwithstanding the Complainant's request that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued.

6.5.1.3.1. Nothing in this Appendix prohibits the SMRT from re-considering a matter when new or additional, relevant information become available, and recommending the pursuit of an investigation.

6.5.2. Investigation. Whenever Formal Resolution is commenced, the Title IX Coordinator or designee will designate one or more Investigators from the University's Office for Equity and Diversity and/or a qualified external investigator to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants, Respondents, and the University community while promoting accountability.

6.5.2.1. Notice of Investigation. The assigned investigator will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify potential Policy violation(s); (4) identify the Investigator; (5) include information about what the parties can expect under the Policy and these Procedures; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; (9) provide a copy of the Policy and these Procedures; and (10) the right to have an advisor of their choice, including an attorney (at their respective, sole expense), present at all meetings including a hearing if warranted.

6.5.2.2. Other Forms of Discriminatory and/or Harassing Conduct. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the University's Notice of Nondiscrimination and Affirmative Action policy, the Title IX Coordinator and/or designee, will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged Notice of Nondiscrimination and Affirmative Action policy and/or Regulation on Responding to Complaints of Prohibited Discrimination, Harassment and/or Related Retaliation ("PDHR Regulation") violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX Coordinator or designee determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the applicable policy (i.e., the Notice of Nondiscrimination and Affirmative Action policy and/or the PDHR Regulation), but the investigation

and resolution will be conducted in accordance with these Procedures.

- 6.5.2.3. Other Student Code of Conduct Violations. If a report of Prohibited Conduct also implicates other violations of the Student Code of Conduct, the assigned investigator will inform the Office of Student Rights and Responsibilities upon the conclusion of the investigation. Any supplemental violations of the Student Code of Conduct against the Respondent will be included in the charges provided to the Respondent prior to a Hearing Board Hearing.
- 6.5.2.4. Opportunity for Acceptance of Responsibility. The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct as charged, in which case OSRR will refer the matter to the Hearing Board for imposition of sanction(s). The Complainant will be notified and both parties will be given an opportunity to provide Mitigation/Impact Statements as described in Paragraph 6.2.1.16. The Respondent's acceptance of responsibility must be voluntary, supported by the facts, and with full knowledge of the ramifications of accepting responsibility. Additionally, any such acceptance of responsibility must be in writing and signed by Respondent.
- 6.5.2.5. 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 Investigator and/or Hearing Board conclude that a Preponderance of the Evidence supports a finding that the Respondent violated the Regulation. Preponderance of the Evidence means that it is more likely than not that the alleged conduct occurred. All witness(es) are strongly encouraged to participate in any related investigation. Employees may be required to participate, to the extent allowed by law.
- 6.5.2.6. Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather, consistent with applicable policy and law, other relevant and available inculpatory and exculpatory (favorable and unfavorable) evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).
- 6.5.2.7. Advisors. Throughout the investigation and resolution process, each party has the right to be represented, at the party's expense by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1.1[R]. The advisor may be any person, including an attorney, who is not otherwise a party or witness potentially involved in the investigation. The University reserves the right to remove any individual whose actions are

disruptive to the proceedings.

- 6.5.2.8. **Prior or Subsequent Conduct.** Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the Notice of Nondiscrimination and Affirmative Action policy and/or other University policy, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed, to the extent allowed by law, if evidence of prior or subsequent conduct is deemed relevant as permitted or required by applicable law.
- 6.5.2.9. **Prior Sexual History.** The sexual history of a Complainant 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, as defined in the regulation, 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. As described in Section 6.5.2.8 above, pattern evidence of similar Prohibited Conduct may be relevant. 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 complaint. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant as permitted or required by applicable law.
- 6.5.2.10. **Relevance.** The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. Evidence is relevant if (1) it bears on a fact of consequence in the case, or (2) it reflects on the credibility of a testifying party or witness in a material way. In general, the Investigator 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 trait.
- 6.5.2.11. **Site Visit(s).** The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.
- 6.5.2.12. **Expert Consultation(s).** The Investigator may consult 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.

- 6.5.2.13. Coordination with Law Enforcement. The Investigator 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 written request of law enforcement, the Investigator may delay the University investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation, to the extent allowed by applicable law.
- 6.5.3. Timing of Investigation. The University will endeavor to make every reasonable effort to complete an investigation within sixty (60) business days from the issuance of the Notice of Investigation. Cooperation of the parties in the investigation may have a direct impact on the timeframe for the completion of an investigation. This timeframe may be extended for good cause, as provided in Paragraph 7 below. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension. Any extension and the reason for the extension, will be shared with the parties in writing. The Investigator will contact the Complainant and Respondent with a status update of the investigation approximately thirty (30) business days from the issuance of the Notice of Investigation. If the investigation extends beyond sixty (60) business days, the Complainant and Respondent will be provided a status update at sixty (60) business days and then at repeating intervals of approximately thirty (30) business days thereafter until complete.
- 6.5.4. Final Investigation Report and Finding(s) of Responsibility. The Investigator will prepare a Final Investigation Report, which will include findings as to whether there is sufficient evidence, by a Preponderance of the Evidence, of a violation of the Regulation. In reaching this finding, the Investigator will consult with the Office of University Counsel. The Investigator will notify both parties, simultaneously, in a Notice of Findings and provide a copy of the Final Investigation Report and case file to OSRR for continuation of the conduct process.
- 6.5.5. Where the Finding is one of Responsibility. If the assigned investigator finds the Respondent responsible, by a Preponderance of the Evidence, for violating the Regulation, OSRR will review the Report of Findings and any supplemental information and determine the appropriate charges. Both parties will be notified of the formal charge(s) by OSRR, which will include the specific offense(s) charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge, consistent with 700.4.1. of the UNC Policy Manual. The Respondent may accept such finding(s) by so notifying OSRR in writing within five (5) business days of the issuance of the Notice of Findings. Upon the acceptance of the finding(s) of responsibility, OSRR will refer the case to the appropriate Hearing Board solely on the issue of sanction, as outlined in Paragraph 6.7.2.2. of these Procedures. The Complainant will be notified by OSRR if the Respondent accepts responsibility and informed of the hearing date and time.

6.5.6. Contesting the Findings. Upon notice of the findings, if either party wishes to contest the findings of the Investigator, they may submit a petition to contest the findings to OSRR within five (5) business days, which outlines their rationale in support of the contest. OSRR will ensure that the non-contesting party will be provided notice of the contest and the opportunity to respond in writing to the rationale provided by the contesting party. OSRR will provide the Final Investigation Report, together with any statements by the parties, to the Hearing Board for further proceedings as outlined in Paragraph 6.6 of these Procedures.

6.6. Hearing Board. OSRR will appoint a standing pool of trained members of the University community, including CSS, SHRA, EHRA and EHRA faculty employees and, at the discretion of OSRR and/or the Title IX Coordinator or designee, external professionals with experience adjudicating cases of Prohibited Conduct. The Director of OSRR or designee will select three members from this pool to serve on the Hearing Board, one of which will serve as the Hearing Chair. The Hearing Board will review the Investigator's finding(s). All persons serving on any Hearing Board must be impartial and free from actual bias and conflict of interest.

6.6.1. Either party may challenge the participation of any Hearing Board member and such members may be removed at the discretion of the Director of OSRR or his/her designee in the event he/she believes that the Hearing Board member cannot be impartial, when a conflict of interest becomes known and the Hearing Board member has not recused himself/herself, and/or when it is clear that the Hearing Board Member is unable or unwilling to appropriately apply the provisions of the Regulation and these Procedures.

6.6.2. Standard of Review. If either of the parties contests the Investigator's finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, the Hearing Board will hold a hearing to review the evidence presented in the Final Investigative Report and other supplemental materials. In its review, the Hearing Board is not bound by the findings and conclusions of the Investigator and will review relevant evidence presented by both parties regarding their support or contest of the findings made.

6.6.3. Notice and Timing of Hearing. Typically, a hearing will be held within approximately fifteen (15) business days from the date of the Investigator's Notice of Findings. OSRR will notify the parties in writing of the date, time, and location of the hearing; the names of the Hearing Board members and the Hearing Advisor; and how to challenge participation by any member of the Hearing Board or the Hearing Advisor for bias or conflict of interest. The Hearing Advisor may grant a request for an extension if it is for good cause and requested prior to the hearing. Good cause for extension may include the unavailability of the parties, the timing of semester breaks or University holidays, or other extenuating circumstances. Any extension, including the reason for the extension, will be shared with the parties in writing by the Hearing Advisor. Prior to the hearing, both parties will be given an opportunity to review the written evidence that will be used at the hearing and a list of witnesses.

6.6.4. Hearing Format. The hearing is an opportunity for the parties to address the Hearing

Board, in person, about issues relevant to the Standard of Review to be applied by the Hearing Board. The parties may address any information related to the investigation, supplemental statements submitted in response to the Investigation, and any impact and mitigation statements if the Hearing enters the sanction phase. 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 to the Chair of the Hearing Board (the "Chair") to pose to the Investigator, the parties, and/or any witnesses; provided, however, if the opportunity to directly question a witness is established by applicable law in any situation presented, the Chair will ensure that opportunity is provided consistent with such law. Upon receipt of proffered questions, the Chair will determine whether each question is relevant to the matter(s) at issue, is impermissible in the proceeding in accordance with this and other relevant ECU policies, or is unnecessarily duplicative. This determination is left solely to the Chair, but the Chair will strive to pose each relevant question exactly as written by the party that proposed it. The Chair will use the same standards to evaluate any questions posed directly to a witness by a party in determining whether the questions are permissible. When the Chair disallows, amends, or declines to ask a question, he or she shall make a good faith effort to revise or develop a new question that seeks the information the proffering party is seeking, to the extent such information is eligible to be considered in the hearing. The party posing the question will be afforded an opportunity for follow-up questions subject to the relevancy review conducted by the Chair. A typical hearing will begin with an outline of the basic facts of the case gathered by the University followed by an opportunity for the Complainant and/or Respondent to address the Hearing Board and present documentary evidence. Next, the Hearing Board will hear from witnesses it deems relevant, with follow-up questions by the Hearing Board of the Investigator or witnesses. The Hearing Board may allow brief concluding remarks by the Complainant and/or Respondent. The Hearing Advisor has the discretion to determine the specific Hearing format to the extent adjustments are necessary to ensure a fair and impartial hearing or as requested by one or both of the parties.

6.6.5. Participation in Hearing

6.6.5.1. Parties. Both the Complainant and the Respondent have a right to be present at the Hearing. Either party may request alternative methods for participating in the Hearing that do not require physical proximity to the other party, including participating through electronic means. This request should be submitted to the Hearing Advisor at least two (2) business days prior to the hearing.

6.6.5.1.1. If, despite being notified of the date, time, and location of the hearing, either party is not in attendance, the hearing may proceed at the discretion of the Director of OSRR or designee. Neither party is required to participate in the hearing in order for the hearing to proceed.

6.6.5.2. Investigator or other witnesses. If the parties wish to request the presence of a witness, the parties must provide names of witnesses each party deems relevant to the determination five (5) business days in advance of the hearing so that OSRR can request participation of the witnesses it deems relevant. The Hearing Board may decline to hear from witnesses where it, after consulting with the parties about the purpose of the testimony of the witness, concludes that all the

information the witness may provide is irrelevant to its review or is unhelpfully duplicative. The assigned Investigator will be available to respond to questions presented by either the Hearing Board or the parties.

- 6.6.5.3. Advisors. Both the Complainant and the Respondent have the right to be represented, at the respective party's expense, by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1.1[R]. The University reserves the right to remove any individual whose actions are disruptive to the proceedings.
 - 6.6.5.4. Cases Involving Expressive Speech or Conduct. To the extent required by N.C. General Statutes Section 116-300, et seq. or policy of the University of North Carolina, students are entitled to a disciplinary hearing under these procedures, including, at a minimum, (1) the right to receive advance written notice of the charges, (2) the right to review the evidence in support of the charges, (3) the right to confront witnesses against them, (4) the right to present a defense, (5) the right to call witnesses, (6) a decision by an impartial arbiter or panel, (7) the right of appeal, and (8) the right to active assistance of counsel, consistent with G.S. 116-40.11.
- 6.6.6. Impact and Mitigation Statements. Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to OSRR for consideration by the Hearing Board in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. OSRR will ensure that each of the parties has an opportunity to review any statement submitted by the other party. OSRR will provide any statement(s) with the Final Investigation Report and the parties' other written submissions to the Hearing Board.
- 6.6.7. Determination by the Hearing Board. Once all relevant information has been presented, the Hearing Board along with the Hearing Advisor and the attorney from Office of University Counsel advising them will remain in the hearing room and all other participants will be dismissed while the Hearing Board deliberates regarding responsibility. The Hearing Board's decision will be based solely on the evidence presented at the hearing. The Hearing Board will reconvene the hearing; announce its decision with respect to findings of responsibility and, if there is a finding of responsibility, immediately begin the considering sanctioning in accordance with Paragraph 6.7.1 below.
- 6.6.7.1. Notice of Hearing Board Determination. Within five (5) business days of the hearing, the Hearing Advisor will notify in writing (which may include email) the Complainant, the Respondent, and the Title IX Coordinator or designee of the Hearing Board's determination.

6.7. Sanctioning

- 6.7.1. The Regulation prohibits a broad range of conduct, all of which is serious in nature.

The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances outlined in the investigation and hearing. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Student Code of Conduct provides the Hearing Board with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Complainant and University community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and corrective components. Some conduct, however, is so egregious in nature, harmful to the individuals involved or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

- 6.7.1.1. In determining the appropriate sanction(s), the Hearing Board will be guided by a number of considerations, including:
 - 6.7.1.1.1. The severity, persistence or pervasiveness of the Prohibited Conduct;
 - 6.7.1.1.2. The nature or violence (if applicable) of the Prohibited Conduct;
 - 6.7.1.1.3. The impact of the Prohibited Conduct on the Complainant;
 - 6.7.1.1.4. The impact or implications of the Prohibited Conduct within the University community;
 - 6.7.1.1.5. Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
 - 6.7.1.1.6. The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
 - 6.7.1.1.7. Any other mitigating, aggravating, or compelling factors.

6.7.2. Possible Sanctions. The University reserves the right to issue any of the following sanctions in connection with a determination of responsibility for any charges associated with the Student Code of Conduct. Possible sanctions include, but are not limited to, warning, probation, suspension, expulsion, community service, educational task, counseling, no-contact ban, restricted privileges, restitution, revocation of degree, failure to comply with sanctions, and/or deferred suspension.

- 6.7.2.1. Conduct Administrator Sanctions. If the Respondent accepts responsibility for the Prohibited Conduct in accordance with Paragraph 6.5.2.4, the Respondent may waive his/her right to a Hearing Board hearing to determine sanctions and instead accept sanctions imposed by a Conduct Administrator. This option is only available when the Complainant does not object to imposition of sanctions by a Conduct Administrator and where the possible sanction does not include expulsion. Both parties will be allowed to present Impact/Mitigation statements, in accordance with Paragraph 6.6.6, to the Conduct Administrator for consideration in determining an appropriate sanction. The waiver of a Hearing Board hearing regarding sanctions must be voluntary, in writing and signed by the Respondent and the Conduct Administrator. Sanctions imposed must be in accordance with the Student Code

of Conduct and may not be appealed by either party.

6.7.2.2. Hearing Board Sanctioning. When the Hearing Board upholds an investigator's findings of responsibility or where the Respondent accepts responsibility for Prohibited Conduct or other Student Code of Conduct violation(s), the Hearing Board will convene/reconvene a hearing to determine sanctions. The Hearing Board may impose any sanction up to and including suspension. In the event the Hearing Board believes expulsion from the University is the appropriate sanction, it will make a recommendation to the Vice Chancellor for Student Affairs, who will make the final determination regarding whether expulsion is appropriate. Sanctions imposed by the Hearing Board and the Vice Chancellor for Student Affairs are final except as they may be appealed pursuant to Paragraph 6.7.4.

6.7.2.2.1. The Respondent and Complainant may also present impact and/or mitigation statements to the Hearing Board. At the conclusion of these presentations, the Hearing Board will recess to make its determination of sanctions. At the conclusion, the Hearing Board will reconvene the hearing to announce its decision.

6.7.2.2.2. Consultation on Sanctioning. The Hearing Board may consult with other administrators or campus offices as needed, including, but not limited to, Student Housing, Campus Life, the Director of OSRR, and the Title IX Coordinator, to ensure that any sanction/disciplinary action is appropriate for the violation.

6.7.2.2.3. Any sanction or combination of sanctions imposed upon a Respondent will be documented in the Respondent's education record. Nothing in these Procedures prevents the Hearing Board from imposing disciplinary action against a Respondent where the Final Investigation Report demonstrates that the Respondent engaged in other conduct prohibited by the Student Code of Conduct and/or other University Policy.

6.7.3. Notice of Hearing Board Determination. Within five (5) business days of the hearing, the Hearing Advisor will notify in writing, simultaneously, the Complainant, the Respondent, the Title IX Coordinator or designee, and the Director of OSRR, of the Hearing Board's determination and imposition of sanctions or recommendation for expulsion (the "Final Outcome letter"). The Final Outcome Letter shall include the name of the Respondent; the violation(s) of the Policy (and, if applicable, the Notice of Nondiscrimination and Affirmative Action policy) for which the Respondent was found responsible or not responsible, the sanction(s) (if applicable) imposed against the Respondent but only as they relate to the Complainant. The rationale for the result and any sanction(s) imposed will be included in the Final Outcome Letter when required by law. The Final Outcome Letter may also identify protective measures implemented with respect to the Respondent or the broader University community. The Final Outcome Letter will not disclose any remedial measures provided to the Complainant, except as may be imposed on the Respondent. Any such remedial measures will be shortly thereafter shared with the Complainant by separate

communication.

6.7.3.1. The University does not impose restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these Procedures, or the Final Outcome Letter, provided that the manner in which any disclosure is made must not be disruptive to the University's educational and/or work environment. Any party may disclose information about the incident, participation in the proceeding, and the Final Outcome Letter to and in connection with consultation with his or her own legal counsel; otherwise, employees and agents of the university may disclose confidential student records and confidential personnel information about others only if and to the extent allowed by law.

6.7.3.2. Recommendations for Expulsion. In the event the Hearing Board believes expulsion from the University is the appropriate sanction, it will make a recommendation to the Vice Chancellor for Student Affairs who will make the final determination regarding sanctions. OSRR will provide the Notice of Student Hearing Board Determination, including a recommendation for expulsion along with the written record to the Vice Chancellor for Student Affairs within five (5) business days of the hearing. The Vice Chancellor may accept the recommendation, reject the recommendation and remand the case back to the Hearing Board with such comments and directions as s/he deems appropriate, or reject the recommendation and substitute other sanctions in place of expulsion. OSRR will notify both parties of the outcome of the determination of the Vice Chancellor in writing within five (5) business days of the decision.

6.7.4. Appeals

6.7.4.1. Either party may appeal. During an appeal, the appealing party has the burden of showing either (1) a violation of due process as defined by the procedures stated in the Regulation and this Appendix A; or (2) a material deviation from Substantive and Procedural Standards adopted by the UNC Board of Governors.

6.7.4.1.1. Violation of Due Process. Due process requires notice and an opportunity to be heard. A violation of due process means that the appealing party was not provided the required notice or an opportunity to be heard.

6.7.4.1.2. Material Deviation from Substantive and Procedural Standards. Substantive and Procedural Standards require that the decision reached be neither arbitrary nor capricious. Generally, this means that there is some evidence to support the decision reached.

6.7.4.1.2.1. A material deviation from substantive standards means there is a lack of information in the record that could support the decision or sanction(s). This does not mean the information presented at the hearing can be re-argued on appeal; rather, it requires a showing that no reasonable person could have determined the Respondent was (or if applicable, was not) responsible or could have imposed the sanction

that was issued, based on the information in the record.

6.7.4.1.2.2. A material deviation from procedural standards means that specified procedural errors or errors in interpretation of University policies or regulations were so substantial as to effectively deny the appealing party a fair hearing through the improper exclusion or admission of evidence or testimony the absence or inclusion of which likely would have resulted in a different outcome in the case. Reasonable, non-substantial deviations from the procedures set out in this Regulation and this Appendix A will not invalidate a decision or proceeding unless the appealing party can show that, but for the deviation or error, there likely would have been a different outcome in the case.

6.7.4.2. Requesting an Appeal. The appealing party must specify in writing (“appeal letter”) the grounds that form the basis for her/his appeal. The appealing party must provide factual information to support her/his claim and explain what outcomes she/he is seeking. The appealing party has a right to be assisted in preparing her/his written challenge, by a licensed attorney or non-attorney advocate, at the appealing party’s expense. OSRR will be available to guide the student through the conduct process, to answer any conduct process-related questions, and to assist with the securing of information from the University.

6.7.4.2.1. The appeal letter must be dated, signed by the appealing party, and received by OSRR within five (5) business days from the date that the written decision on sanctions is provided to the appealing party, either by hand delivery or by delivery through e-mail or postal mail. Appeals should be directed to osrr@ecu.edu; or 364 Wright Building. Failure to deliver the written notice of appeal within this time limit will render the decision of the Hearing Board (or the Vice Chancellor for Student Affairs in a decision for expulsion) final and conclusive. Upon request to OSRR, a request for an extension of time may be granted for good cause shown.

6.7.4.3. Appeal of Hearing Board Determination. Where a Complainant or Respondent has appealed a determination by the Hearing Board, the Director of OSRR or designee, will compile the written record and provide it to the Vice Chancellor for Student Affairs or designee to make the final determination based on the standard in Paragraph 6.2.5.1 and 6.2.5.2 above. The Vice Chancellor for Student Affairs will make a final administrative decision within forty-five (45) calendar days after the hearing is completed.

6.7.4.4. Appeal of Vice Chancellor for Student Affairs Imposition of Expulsion. If the Vice Chancellor for Student Affairs determines that a Respondent should be expelled, either party has the right to appeal the decision to the East Carolina University Board of Trustees. The appealing party should send a written appeal by certified or registered mail, return receipt requested, or by another means that provides proof of delivery to the Assistant Secretary to the Board of Trustees within ten (10) business days after the notice of the Vice Chancellor’s decision is sent to the Respondent. A copy must also be provided to the Office of Student

Rights and Responsibilities and the Vice Chancellor for Legal Affairs and University Counsel. If the appeal is received in a timely manner, the Board of Trustees will establish a schedule for its review. If the appealing party fails to comply with the schedule, the Board of Trustees may dismiss the appeal.

6.7.4.4.1. The Board of Trustees may affirm the decision of the Vice Chancellor for Student Affairs, reject the decision and remand it to the Vice Chancellor for reconsideration, or reject the decision and overturn the finding of responsibility or modify the sanctions imposed. The decision of the Board of Trustees may be appealed by either party to the Board of Governors of the University of North Carolina, if and to the extent allowed by policy of the University of North Carolina. The written appeal should be sent by certified or registered mail, return receipt requested, or by another means that provides proof of delivery, to the President of the University of North Carolina within ten (10) business days after the notice of the University Board of Trustee's final decision is sent to the Respondent. The correspondence should be mailed to Office of the President, University of North Carolina, c/o Vice President and General Counsel, P.O. Box 2688, Chapel Hill, NC 27515-2688. A copy must also be provided to the Office of Student Rights and Responsibilities and the Office of the Vice Chancellor for Legal Affairs and University Counsel for ECU. The decision of the Board of Governors is final.

6.7.5. Nothing in these Procedures abrogates post-adjudication rights as provided by state and federal law (i.e., North Carolina Civil Rights Division of the Office of Administrative Hearings; the Office for Civil Rights; and the Equal Opportunity Employment Commission).

7. Extension of Timelines for Good Cause

7.1. The University will typically investigate within sixty (60) business days. However, any deadline or timeframe for a particular portion of these Procedures may be extended by the Title IX Coordinator or designee for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. In the event an extension is necessary, the Investigator, and/or the Title IX Coordinator or designee, will notify the parties in writing of any extension of a deadline or timeframe and the reason for such extension.

8. Vice Chancellor for Student Affairs Substitution

8.1. The Chancellor may assume the responsibility of the Vice Chancellor for Student Affairs or designate another Vice Chancellor or other ECU administrator in the event the Vice Chancellor for Student Affairs is unavailable; is a witness in the investigation; has a conflict of interest; or when the Chancellor determines that a substitution is necessary to ensure a

fair and timely review. In the event the Chancellor assumes the role of the Vice Chancellor for Student Affairs, the Chancellor will appoint another Vice Chancellor to assume responsibilities of the Chancellor under these procedures.

9. Records Retention

- 9.1. ECU will maintain the investigation record as a confidential personnel record in accordance with N.C. General Statute Chapter 126 and/or a confidential student record in accordance with the Family Educational Rights and Privacy Act (FERPA). The information contained in the investigation record generally will not be released without the written and dated consent of the employee or student identified in the record. However, investigation records may be shared with third parties to the extent allowed under law.