

Note: This Policy is currently undergoing revision to comply with applicable law.

UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS

**Policy on Prohibited Harassment, Including Sexual Misconduct
and Discrimination**

Policy # 117

Source of Authority: N.C.G.S. § 116-34(a);

Title IX of the Education Amendments of 1972 and its implementing
regulation at 34 C.F.R. Part 106 (Title IX);

Title VII of the Civil Rights Act of 1964;

42 U.S.C. § 2000e;

UNC Code § 103; 502(A); 600(2); 603; 608

Revision Authority: Chancellor

History: First Issued: February 17, 2011

Revised: July 25, 2013

Related Policies: *UNC Code* Appendix I;

UNC Policy Manual § 300.4.1;

UNCSA Faculty Manual

Code of Conduct & Discipline Policy #802;

Equal Opportunity Policy #111;

Grievance (SAAO-II and Other EPA) Policy #614

Grievance (SPA) Policy #615;

Improper Relations Policy #616;

Title IX Policy #121

College Student Handbook, Student Code of Conduct Chapter II

High School Student Handbook, Student Code of Conduct Chapter II

Responsible Offices: Human Resources Department

Dean of Students

Effective Date: August 22, 2013

I. Purpose

UNCSA seeks to promote an atmosphere of inclusiveness, diversity, openness, free exchange of ideas, and freedom of inquiry in which employees can realize their maximum potential in the workplace and students can engage fully in the learning process during their artistic, intellectual and personal development. In order to achieve this, UNCSA believes that a climate of honesty, civility, common courtesy, mutual respect and non-discrimination is necessary.

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II. Scope

This policy applies to all applicants for employment and admission to UNCSEA programs, officers and employees of UNCSEA, students, and other persons who serve UNCSEA as its agents and are under the control of UNCSEA.

III. Definitions

General Definitions

- A. **“Complainant”** means an individual who alleges that he/she was the victim of a violation of this Policy.
- B. **“Consent”** means informed, freely and actively given, mutually understandable words or actions indicating a willingness to participate in a mutually agreed upon activity. Activity which violates North Carolina criminal law is not considered consensual under this policy. (See N.C.G.S. 14-27.2, 14-27.2A, 14-27.7A, 14-27.4, 14-27.4A, 14-202.2.) Silence or lack of resistance does not imply consent. A previous relationship or prior participation in an activity does not indicate current consent. Consent to one activity does not imply consent to other activities. Consent may expire after a reasonable time, depending on the circumstances. Consent may be withdrawn at any time, as long as the withdrawal is clearly communicated prior to completion of the activity. Consent has not been obtained in situations where someone:
 - a. Is forced, threatened, pressured, intimidated, manipulated, or has reasonable fear that he/she or another will be injured if he/she does not submit to or engage in the activity;
 - b. Is unable to give consent or is prevented from resisting due to sleep, involuntary physical restraint, unconsciousness, or the influence of drugs or alcohol; or
 - c. Has a mental or physical disability that inhibits his or her ability to give consent.
- C. **“Discrimination”** means an intentional or unintentional act that results in adverse treatment of a person based on race, color, gender, age, national origin, religion, creed, genetic information, disability as defined by N.C.G.S. § 168A-3, veteran’s status, sexual orientation, gender identity, or gender expression (These classifications are considered a “Protected Status” for the purposes of this Policy).
- D. **“Employee”** means all UNCSEA applicants for employment, employees including Faculty, EPA-NT, SPA, student employees acting in the course of their employment, temporary and other employees on special assignment.
- E. **“FERPA”** means the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.
- F. **“Harassment”** means bias-related harassment, hostile environment harassment, quid pro quo harassment, or unlawful harassment, all as defined in this Policy.

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- a. “Biased-Related Harassment” means all unlawful harassment plus harassment based on political affiliation or sexual orientation that create a hostile working or learning environment or circumstances involving quid pro quo.
 - b. “Hostile Environment Harassment” means unwelcome conduct that has the effect of either
 - i. unreasonably interfering with an individual’s work, academic, artistic, or administrative performance; OR
 - ii. creating an intimidating, hostile, or offensive working or learning environment for the harassed individuals and/or others.
 - c. “Quid Pro Quo Harassment” means unwelcome conduct such as unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct when
 - i. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, employment decisions, academic or artistic standing or receipt of a needed UNCSA service; OR
 - ii. submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting such individual in matters of employment, academic or artistic standing, or receipt of a needed UNCSA service.
 - d. “Unlawful Harassment” means unwelcomed or unsolicited speech or conduct based upon race, color, gender, age, national origin, religion, creed, genetic information, disability as defined by N.C.G.S. § 168A-3, veteran’s status, sexual orientation, gender identity, or gender expression that creates a hostile work environment or circumstances involving quid pro quo.
- G. **“Investigator”** means the individual(s) designated to conduct an investigation of alleged violations of this policy and to make factual findings regarding the complaint.
- H. **“Protected Status”** for the purposes of this Policy, means an individual’s race, color, gender, age, national origin, religion, creed, genetic information, disability, veteran’s status, sexual orientation, gender identity, gender expression.
- I. **“Respondent”** means the student or employee alleged to have violated this Policy.
- J. **“Retaliation”** means adverse action an individual encounters as a consequence of reporting (in good faith) alleged harassment and/or including sexual misconduct or discrimination or as a consequence of participating in an investigation of alleged harassment, including sexual misconduct or discrimination. Adverse action includes overt or covert acts of reprisal, interference, restraint, penalty or intimidation.
- K. **“Sexual Misconduct”** means prohibited acts including acts of sexual violence, sexual acts without consent, sexual contacts without consent, sexual exhibitionism without consent, sexual exploitation without consent, and/or sexual harassment. (See the table below for more specific descriptions.) Sexual misconduct can occur between strangers, acquaintances, and people involved in an intimate or on-going sexual relationship; can be committed by men or women; and can occur between people of the same or opposite gender.

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TYPES OF SEXUAL MISCONDUCT	DESCRIPTION
Sexual Act	Sexual intercourse, cunnilingus, fellatio, or anilingus, or knowingly inserting an object or part of one's body into another's genital or anal opening, without their consent.
Sexual Contact	The deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), touching another with one's intimate parts, or causing a person to touch their own or another person's intimate parts without their consent.
Sexual Exhibitionism	Engaging in a sexual activity or exposing one's intimate parts (including genitalia, groin, breast or buttocks) in the presence of others without their consent.
Sexual Exploitation	<p>When a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and the behavior does not amount to any other sexual misconduct offense. Exploitation includes, but is not limited to:</p> <ul style="list-style-type: none"> • impairing or attempting to impair another person's ability to provide consent in order to gain a sexual advantage; • prostituting another person; • recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; or • allowing third parties to observe private sexual acts, and/or engaging in voyeurism.
Sexual Harassment	<p>Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when :</p> <p>Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a University activity;</p> <p>Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting that individual's academic standing, employment status, or participation in a University activity (this is commonly referred to as "Quid Pro Quo" Harassment); or</p> <p>Such conduct unreasonably affects or interferes with an individual's academic or work performance or creates an intimidating, hostile, or offensive environment.</p>
Sexual Violence (Title IX language)	"Sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the person's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion.

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- L. **Standard of Proof** means the “level” of certainty required to establish that a violation of the Code of Conduct or this Policy has occurred. The standard applicable to this policy is the preponderance of evidence (the evidence demonstrates that it is more likely than not that a violation has occurred).
- M. **“Student”** means an individual who, at the time of the alleged harassment, including sexual misconduct, or discrimination has been accepted for admission to the University, has registered for coursework, is an auditing student, or is otherwise participating in an educational program sponsored by or affiliated with the University.
- N. **“Student Code of Conduct”** means the regulations concerning student behavior published in the [UNCSA College Student Handbook](#) and [UNCSA High School Student Handbook](#).
- O. **“Section 504”** of the Rehabilitation Act of 1973, as amended, prohibits discrimination based on disability in programs and activities receiving federal financial assistance.
- P. **“Title VI”** of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Q. **“Title VII”** of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on race, color, religion, sex and national origin.
- R. **“Title IX”** of the [Education Amendments of 1972](#), as amended, prohibits discrimination on the basis of gender in any federally funded education program or activity. Title IX applies to *all* programs including, but not limited to academics, admissions, athletics, educational opportunities, student employment, financial aid and housing, as well as all activities sponsored by the University. Included in the application of this Act is a prohibition against sexual misconduct, including sexual harassment. For a thorough explanation of sexual violence as sex discrimination, please read OCR's complete ["Dear Colleague Letter"](#) at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.
- S. **“University”** means the [University of North Carolina School of the Arts \(UNCSA\)](#).

Personnel Definitions

- A. **“Coordinator”** means the individual who coordinates Section 504, Title VI, Title VII, and Title IX compliance efforts and responsibilities. This may include serving as the central repository for information on campus, overseeing investigations of alleged violations of this Policy, coordinating with campus law enforcement when necessary and identifying and addressing patterns or systemic issues. The Coordinator ensures a prompt and equitable process exists to resolve complaints.
- B. **“Human Resources Deputy Coordinator”** means a person in the Office of Human Resources who investigates alleged employee violations of this Policy.
- C. **“Student Affairs Deputy Coordinator”** means a person in the Dean of Student’s Office who investigates alleged student violations of this Policy.

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IV. Policy

- A. The University does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's race, color, gender, national origin, age, religion, creed, genetic information, disability, veteran's status, sexual orientation, gender identity or gender expression (hereinafter his/her "protected status")
- B. The University recognizes the rights of all members of the University community to learn and work in an environment that is free from harassment, including sexual misconduct and discrimination based on his/her protected status as described above. Any such harassment or discrimination of University students or employees, including faculty, non-faculty employees who are exempt from the Personnel Act (EPA non-faculty employees), employees who are subject to the State Personnel Act (SPA employees), and student employees is prohibited.
- C. Applicability
- a. **In Employment:** The following employment practices are prohibited by the University:
 1. Failing or refusing to hire or discharging any individual or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's protected status; or
 2. Limiting, segregating, or classifying employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's protected status.
 - b. **In Academic and Student Programs:** There shall be no harassment, including sexual misconduct or discrimination, against any student or applicant for admission as a student because of such individual's protected status with respect to recruiting, admission, financial aid, academic progress/grading, housing and residential communities, and access to programs, including social, recreational and health programs.
- D. Any individual who files an intentionally dishonest complaint or one made in willful disregard of the truth will be subject to appropriate disciplinary action.
- E. **Protection for Complainants—No Retaliation** To the
extent permitted by law, during the investigation and resolution of harassment, including sexual misconduct and discrimination complaints, UNCSA will take reasonable steps to protect the Complainant from both the alleged behavior and possible retaliation. The University does not tolerate any form of retaliation against a person because he/she in good faith files a complaint or cooperates in an investigation of a complaint of alleged harassment or discrimination. Any person who retaliates against another person for exercising rights under this Policy in good faith will be subject to appropriate and prompt disciplinary action.

Any person who has a concern about potential or actual retaliation should report such concern to [Deputy Title IX Coordinator](#). Employees should contact the Director of Human Resources or designee; Students should contact the [Dean of Students](#) or designee.

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F. Academic Freedom and Harassment This policy shall not impair the lawful exercise of free speech (including written, graphic, verbal or artistic expression) that serves legitimate educational or artistic purposes; shall not infringe upon legitimate teaching methods; and shall not restrict the academic or artistic freedom of UNCOSA community members. The exercise of artistic expression serving a legitimate educational or artistic purpose does not constitute a violation of this policy.

Prohibited harassment, sexual misconduct, and discrimination are not protected exercises of academic freedom.

G. Relationship to Other Proceedings Conduct violating this Policy may also constitute a criminal offense. Complainants alleging criminal conduct may file charges with the appropriate law enforcement agency. Criminal investigations may be helpful in gathering relevant evidence, particularly forensic evidence, for the Informal or Formal Resolution processes. For information about pursuing a criminal complaint, please contact the [UNCOSA Campus Police](#).

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are *not* dispositive of whether prohibited harassment, sexual misconduct, or discrimination occurred under this Policy. In other words, conduct may constitute prohibited harassment, sexual misconduct, or discrimination under this Policy even if a law enforcement agency determines that no crime has been committed.

Further, the filing of a complaint under this Policy is independent of any criminal investigation or proceeding, and the University will not wait for the conclusion of any criminal investigation or criminal proceeding before commencing its own investigation or taking interim measures to protect the Complainant and the University community.

Similarly, conduct which violates this Policy may also implicate additional grounds for discipline. Consequently, a manager and/or the Deputy Title IX Coordinator may conduct additional investigation and proceedings as appropriate.

H. Confidentiality Administrators responsible for implementing this Policy will attempt to protect the confidentiality of harassment, sexual misconduct, and discrimination proceedings to the extent reasonably possible. All participants in the process are required to respect the confidentiality of the proceedings. Due to the University's commitment to a campus free from harassment, sexual misconduct and discrimination, the University may investigate allegations and/or take other appropriate actions even if the Complainant does not wish to pursue the matter. Further, the University will comply with federal law requiring the University to inform the community of certain criminal activity.

The University's ability to investigate an anonymous complaint or a complaint in which the Complainant wishes to remain confidential will be limited.

I. Resources for Information and Assistance Any student or employee who receives information or becomes aware of prohibited harassment, sexual misconduct, or discrimination against any member of the UNCOSA community should

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advise the harassed/discriminated individual to report the incident immediately to the [Deputy Title IX Coordinator](#), in compliance with the procedures below.

As part of the University's commitment to providing an educational and work environment free from harassment, sexual misconduct, and discrimination, the University will disseminate this policy through inclusion in the UNCSA Policy Manual, posting on the University website, new employee orientations, student orientations and various employee training programs. The Dean of Students and the Director of Human Resources are responsible for these education measures.

V. Revision History

A. Feb. 11, 2011 - Adopted by Board of Trustees as part of UNCSA Policy Manual

B. July 25, 2013 - Revised to include sexual misconduct and discrimination in compliance with Section 504, Title VI, Title VII, and Title IX regulations.

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UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS

Prohibited Harassment, Including Sexual Misconduct and Discrimination Procedures

Procedure #117

1. [Grievance Procedure for Students Alleging Violation by an Employee](#)
2. [Grievance Procedure for Students Alleging Violation by Another Student](#) [Appendix B](#)
3. [Grievance Procedure for Employees Alleging Violation by Another Employee](#)
4. [Grievance Procedure for Employees Alleging Violation by a Student](#)

Grievance Procedure for Students Alleging Violation by an Employee

I. Generally

Any student who believes that he/she has been harassed, subjected to sexual misconduct, or discriminated against by a University employee (faculty member, staff member or student employee in the course of their employment) based upon his/her protected status or who feels that he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment, including sexual misconduct or discrimination or his/her participation in an investigation of alleged prohibited harassment, including sexual misconduct or discrimination must utilize these procedures to bring an internal complaint to redress the situation.

Note: Allegations of prohibited harassment, including sexual misconduct or discrimination by *a student against another student* are addressed by [Appendix B](#) to the UNCSA Student Code of Conduct.

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II. REPORTING PROCEDURES

- A. Students are encouraged to report violations of this Policy by University employee to any one of the following:
- a. [Human Resources Deputy Coordinator \(hereinafter Investigator\)](#)
 - b. [Dean of Students](#)
 - c. [Director of Residence Life](#)
 - d. [Their respective Art School Dean or Academic Dean](#)
 - e. [Campus Police](#)

When one of the above administrators receives a student report of prohibited harassment including sexual misconduct or discrimination by University employee, the administrator should notify the [Investigator](#) in the Human Resources Office immediately or as soon as possible.

B. Students are encouraged to report prohibited harassment, including sexual misconduct or discrimination immediately or as soon as possible.

C. Any other University employee who receives notice of a student's allegation of violation of this Policy must notify the [Investigator](#) immediately or as soon as possible. An employee in a supervisory position who has knowledge of conduct involving prohibited harassment, including sexual misconduct or discrimination that may have occurred in his or her unit must take immediate action to report the matter. Not doing so may result in serious disciplinary consequences and will be considered in breach of supervisory responsibility.

D. Regardless of the wishes of a minor student, an investigation into allegations of a violation of this Policy is mandatory. In cases involving adult students, an investigation will occur if the student consents. An investigation will occur without the reporting student's consent if necessary to protect UNCSEA or the UNCSEA community.

III. Investigation

A. Intake Meeting with the Complainant:

Upon receipt of notice of any allegation of violation of this Policy by a University employee, the [Investigator](#) will promptly schedule an individual meeting with the Complainant.

Prior to the meeting, the Investigator will:

- a. Review the written complaint for completeness
- b. Determine whether the facts alleged in the complaint, if true, could constitute a violation of this Policy. If not, the Investigator may ask the student Complainant to clarify or amplify the statement, may refer the Complainant to another appropriate grievance process, or may dismiss the complaint. The Complainant may appeal a decision to dismiss the complaint to the Chancellor or his/her Designee.

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During the meeting, the Investigator will:

- a. Make written notes of the allegations;
- b. Provide the Complainant a general understanding of these Regulations;
- c. Identify forms of support or immediate interventions available to the Complainant;
- d. Discuss any accommodations or interim measures that may be appropriate concerning the Complainant's academic, art, University housing, and/or University employment arrangements; and
- e. Seek to determine if the Complainant wishes to proceed with the complaint or does not wish to pursue resolution of any kind.

B. Complainant Does Not Wish to Proceed with the Complaint or Requests Confidentiality:

If the Complainant does not wish to proceed with the complaint, the University may still be required by law to investigate the allegations and take appropriate responsive measures. Similarly, in these circumstances, the University may not be able to honor a Complainant's request that his/her identity remain confidential. Even where the University is able to honor a Complainant's request to protect his/her confidentiality, the Investigator will inform the Complainant that the University's ability to fully respond to the complaint may be limited if the Complainant insists on confidentiality.

If a Complainant is less than 18 years of age, the Investigator may have a legal obligation to report certain instances of harassment and sexual misconduct to the North Carolina Division of Social Services or to other persons or organizations as required by law.

C. Complainant Wishes to Proceed with the Complaint:

If the Complainant wishes to proceed with the complaint, the Investigator shall:

- a. Notify the Dean of Students (if not already on notice) of the complaint;
- b. Notify the University dean or department head in whose division the employee accused of violating the policy is employed. If more than one University employee is accused in the complaint and those persons are employed in different divisions, the respective deans or department heads will all be notified
- c. Proceed with either Informal Resolution or the Formal Administrative Review Process.

D. Informal Resolution:

- a. A student who believes that he/she has been the victim of prohibited harassment, sexual misconduct, or discrimination by a University employee has the option to attempt informal resolution of the matter.
- b. The Investigator and the Coordinator or their designees will assist the student Complainant and the Respondent in participating in an informal resolution process which may include individual resolution, mediation or other remedial measures. (Note: No mediation will be pursued in instances of sexual misconduct).
- c. Complaints may be resolved through either of the informal processes described below. The choice of how to proceed rests with the Complainant (subject to the

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provision above concerning allegations involving a minor student).

- i. Individual Resolution. The Complainant may attempt to resolve the matter directly with the employee Respondent and report to the Investigator within a mutually agreed time.
 - ii. Mediation.
 1. The Complainant may request mediation to attempt to resolve the complaint.
 2. If such a request is made, the Investigator shall determine whether the employee Respondent is willing to engage in mediation, and, if so, a mediator shall be selected by mutual agreement of the parties.
 3. The role of the mediator is to facilitate discussion and to suggest alternative resolutions. The mediator does not investigate the complaint or assign blame.
 4. The mediator will report the outcome of the process to the Investigator.
 - d. The informal process described above may or may not involve an investigation.
 - e. The student may, at any time during the Informal Resolution Process, elect to terminate the Informal Process and proceed with a formal complaint.
- E. Regardless of the outcome of any Informal Resolution Process, if the student elects to forego a formal harassment, sexual misconduct or discrimination complaint against a University employee, the Investigator will convey the circumstances to the Employee's supervisor, UNCSA General Counsel, and the [Title IX Coordinator](#). The Employee's supervisor, UNCSA General Counsel, and the [Title IX Coordinator](#) will determine whether to pursue further investigation or action against the Employee.
- F. If a student elects to proceed with a formal harassment, sexual misconduct or discrimination complaint against a University employee, whether or not informal efforts have been made, the student must follow the procedures described herein.
- G. A formal complaint under this procedure may be made only by means of filing a written, signed statement with the Investigator.

H. Formal Administrative Review Process:

- a. The Investigator will have complete responsibility for conducting the investigation and making a University decision on the complaint. This investigation and decision constitute the Administrative Review Process.
- b. In most cases, the Administrative Review Process will conclude within 60 calendar days. If more time is needed, the Investigator will notify both the student and the employee Respondent as to the length of extra time needed and reasons for the delay.
- c. The purpose of Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint, to determine whether the employee Respondent has violated this policy, and to equitably address the concerns in order to resolve the complaint. If the Investigator concludes that the policy has been violated, the Investigator will also determine whether the student is entitled to the relief requested or to other relief, and whether to recommend disciplinary sanction for the violator.

- d. The Investigator may conduct the investigation directly, or may enlist one or more others to assist him/her with the investigation and to prepare reports and recommendations to the Investigator; however, in any event, the final decision reached will be that of the Investigator. In subsequent sections of this procedure, persons designated by the Investigator to assist in the investigation are also referred to as the Investigator.
- e. Resolution of the complaint by mutual agreement of the parties is encouraged. The student or the employee Respondent may at any time during the course of the investigation propose such an agreement to the Investigator, who is authorized to assist the parties in resolving the matter by agreement.
- f. The scope of the investigation will be determined by the Investigator in his/her discretion and according to the complaint and the facts.
- g. The method of investigation shall be within the discretion of the Investigator. However, the following requirements shall be observed:
 - i. The Investigator's decision shall be based solely upon the written complaint and evidence received during the investigation. All evidence collected during
 - ii. the investigation shall be preserved. All spoken evidence shall be tape recorded.
 - iii. Both the student and the employee Respondent may be accompanied by another member of the University community to provide support and assistance during meetings with the Investigator throughout the course of the investigation, so long as the individual does not interfere with the Investigator's ability to conduct the investigation. Neither the student Complainant nor the employee Respondent is permitted to have an attorney present during these proceedings.
 - iv. The student will be provided a reasonable opportunity to present his/her evidence supporting the charge in the form of documents, interviews, and the student's and others' direct testimony about the facts alleged. As to any evidence collected during the investigation, the Investigator may ask questions or request additional information and may refuse to consider any evidence submitted which he/she concludes is repetitious, irrelevant, or otherwise without sufficient value to the investigation.
 - v. After receiving the initial evidence from the student, the Investigator will interview the employee Respondent and any other persons who may have information relevant to the investigation. Multiple interviews may be conducted as may be necessary with the student, the employee Respondent, or any other person to aid the Investigator in understanding the facts and issues related to the grievance. Likewise, the Investigator may obtain any University record deemed necessary to the investigation and may request from the participants or other sources any documents which will be of assistance.
 - vi. The Investigator should maintain a written timeline of each action taken during the investigation process, including but not limited to, dates of all investigatory steps, individuals interviewed, documents reviewed, and other evidence gathered.

- vii. After receiving evidence as provided in paragraphs iii. and iv. above, the Investigator will prepare a written Draft Findings Report in keeping with guidelines developed by the Coordinator regarding content and format.¹
- viii. The Investigator will deliver the Draft Findings Report to the Coordinator.
- ix. The Coordinator will review for completeness and compliance, and will either provide feedback for changes or for the inclusion of additional information or will approve the Draft Findings Report as written.
- x. After considering any feedback provided by the Coordinator, the Investigator will reach a final decision. If the decision is that the employee Respondent has violated the policy, the Investigator will obtain the confidential records of prior incidents involving the employee Respondent, if any, and will consider such records in any recommendation to impose disciplinary penalties on the person found to have violated the policy.
- xi. The investigator will prepare a Final Report (in keeping with the Coordinator's guidelines) summarizing the relevant facts found during the investigation and explaining the basis for the conclusion that the employee Respondent has or has not violated the Policy on Prohibited Harassment, Including Sexual Misconduct and Discrimination.

If the Final Report concludes that the employee Respondent has not violated the Policy, the Investigator will so notify the student and the employee Respondent via a written Outcome Letter.

- xii. If the Final Report concludes that the employee Respondent has violated the Policy, the Investigator should also indicate what relief if any the complainant should receive and may include recommendations for disciplinary sanctions
- xiii. The Investigator shall deliver the complete Final Report to the employee's immediate supervisor for determination of appropriate remedial or disciplinary action, if any, in accordance with existing institutional policies and procedures. Copies of the Final Report shall be given to the Coordinator, the appropriate dean or department head and to UNCSCA's General Counsel. Any recommendation for dismissal, suspension, or diminishment in rank shall proceed in accordance with applicable University policies.
- xiv. The employee Respondent's immediate supervisor will prepare an Outcome Letter to the employee which includes:
 1. a summary of the relevant facts found as a result of the investigation;
 2. an explanation of the basis for the decision that the employee Respondent violated this Policy;
 3. a listing of all disciplinary sanctions or other remedial measures instituted because of the violation; and
 4. any other action that the immediate supervisor deems to be appropriate.
- xv. The Coordinator will give the student Complainant an Outcome Letter summarizing the investigator's findings of fact and the conclusion that the employee Respondent violated this policy. The complainant will receive no information about disciplinary sanctions or remedial measures unless those

¹ This report will include the Complainant's and Respondent's names (if appropriate), the facts of the case, any statements received, a timeline of the investigation, copies of all documents gathered; and the investigator's preliminary decision regarding whether the actions violated this policy.

sanctions or measures directly impact the student. (Ex: Respondent is not to be within 500 feet of student.)

- xvi. The Final Report, with the evidence collected during the investigation, will be filed in Human Resources.
- xvii. After the Investigator has completed the Final Report, the student who filed the complaint or the employee Respondent may appeal the disposition of the investigation as follows:
 - 1. Employee Respondents may appeal via the existing University policies covering grievance procedures prescribed for individuals in that category of employment (SPA, EPA-NT, Faculty). All timelines and processes in the applicable policy should be followed in order to preserve all employee rights.
 - 2. Student Complainants may file a written appeal to the Chancellor or his/her designee setting forth the bases for contending that the investigation, conclusion, and/or sanction was insufficient. The Chancellor or his designee will make a decision within 10 business days of receiving the appeal.

Grievance Procedure for Students Alleging Violation by Another Student

Allegations of prohibited harassment, including sexual misconduct or discrimination by *a student against another student* are addressed by [Appendix B](#) to the UNCOSA Student Code of Conduct, *UNCOSA Disciplinary Process for Violations of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination*.

Grievance Procedure for Employees Alleging Violation by Another Employee

This procedure applies to all faculty members, full-time and part-time permanent or temporary UNCSA employees exempt from the State Personnel Act, and full-time and part-time permanent or temporary UNCSA employees subject to the State Personnel Act. The procedure applies to students who are employed by UNCSA, if the alleged harassment arises in the context of that employment. The persons to whom this procedure applies are referred to hereinafter as "employees."

I. Generally

Any employee who believes that he/she has been harassed, subject to sexual misconduct, or discriminated against by another University employee based upon his/her protected status or who feels that he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment, including sexual misconduct or discrimination or his/her participation in an investigation of alleged prohibited harassment, including sexual misconduct or discrimination must utilize these procedures to bring an internal complaint to redress the situation.

Note: Allegations of prohibited harassment, including sexual misconduct or discrimination by *a student against an employee* are addressed by [Appendix B](#) to the UNCSA Student Code of Conduct.

II. Reporting Procedures

A. Employees are encouraged to report violations of this Policy by a University employee to any one of the following:

- a. [Human Resources Deputy Coordinator \(hereinafter Investigator\)](#)
- b. [Director of Human Resources](#)
- c. The employee's immediate supervisor

If the Director of Human Resources or the employee's supervisor should receive an employee report of prohibited harassment, including sexual misconduct or discrimination by University employee, they should notify the Investigator immediately or as soon as possible.

B. Employees are encouraged to report prohibited harassment, including sexual misconduct or discrimination immediately or as soon as possible.

C. Employees subject to the State Personnel Act who wish to preserve their rights under the grievance policy must submit a written grievance to the Investigator within 30 calendar days of the alleged harassing action.

D. SPA Employees may opt to file a grievance under UNCSA's Grievance Procedures for SPA Employees.

E. Violations of this policy are treated as inappropriate personal conduct.

F. An employee in a supervisory position who has knowledge of conduct involving prohibited harassment, including sexual misconduct or discrimination that may have occurred in his or her unit must take immediate action to report the matter. Not doing so may result in serious disciplinary consequences and will be considered in breach of supervisory responsibility.

III. **Investigation**

A. **Intake Meeting with the Employee Complainant**

Upon receipt of notice of any allegation of report prohibited harassment, including sexual misconduct or discrimination by a University employee, the Investigator will promptly schedule an individual meeting with the employee Complainant.

Prior to the meeting, the Investigator will:

- a. Review the written complaint for completeness
- b. Determine whether the facts alleged in the complaint, if true, could constitute a violation of this Policy. If not, the Investigator may ask the employee Complainant to clarify or amplify the statement, may refer the Complainant to another appropriate grievance process, or may dismiss the complaint.

During the meeting, the Investigator will:

- a. Make written notes of the allegations;
- b. Provide the Complainant a general understanding of these Regulations;
- c. Identify forms of support or immediate interventions available to the Complainant;
- d. Discuss any accommodations or interim measures that may be appropriate concerning the Complainant's supervisory or schedule arrangements; and
- e. Seek to determine if the Complainant wishes to proceed with the complaint or does not wish to pursue resolution of any kind.

B. **Complainant Does Not Wish to Proceed with the Complaint or Requests Confidentiality:** All efforts will be made to comply with the wishes of the Complainant. However, in order to adequately protect employees and to preserve an inclusive and welcoming work environment, the University may elect to proceed with the complaint.

C. **If the Complainant wishes to proceed with the complaint, the Investigator may:**

- a. In his or her sole discretion, discuss the matter in confidence with the administrator or administrators responsible for the units in which the problem has arisen so that the situation may be monitored and appropriate steps taken to avoid future problems.
- b. Proceed with either Informal Resolution or the Formal Administrative Review Process.

D. Informal Resolution:

- a. An employee who believes that he/she has been the victim of prohibited harassment, sexual misconduct, or discrimination by a University employee has the option to attempt informal resolution of the matter.
 - b. The Investigator or his/her designees will assist the employee Complainant and the Respondent in participating in an informal resolution process which may include individual resolution, mediation or other remedial measures. (Note: No mediation will be pursued in instances of sexual misconduct).
 - c. Complaints may be resolved through either of the informal processes described below.
 - i. Individual Resolution. The Complainant may attempt to resolve the matter directly with the employee Respondent and report to the Investigator within a mutually agreed time.
 - ii. Mediation.
 1. The employee Complainant may request mediation to attempt to resolve the complaint.
 2. If such a request is made, the Investigator shall determine whether the employee Respondent is willing to engage in mediation, and, if so, a mediator may be selected by mutual agreement of the parties or at the determination of the Investigator.
 3. The role of the mediator is to facilitate discussion and to suggest alternative resolutions. The mediator does not investigate the complaint or assign blame.
 4. The mediator will report the outcome of the process to the Investigator.
 - d. The informal process described above may or may not involve an investigation.
 - e. The employee Complainant may, at any time during the Informal Resolution Process, elect to terminate the Informal Process and proceed with a formal complaint.
- E. Regardless of the outcome of any Informal Resolution Process, if the employee Complainant elects to forego a formal harassment, sexual misconduct or discrimination complaint against a University employee, the Investigator will convey the circumstances to the Employee's supervisor, UNCOSA General Counsel, and the Office of Human Resources. The Employee's supervisor, UNCOSA General Counsel, and the Office of Human Resources will determine whether to pursue further investigation or action against the Employee.
- F. If an employee elects to proceed with a formal harassment, including sexual misconduct or discrimination complaint against a University employee, whether or not informal efforts have been made, the employee must follow the procedures described herein.
- G. A formal complaint under this procedure may be made only by means of filing a written, signed statement with the Investigator.
- H. Employees subject to the State Personnel Act who wish to preserve their rights under the grievance policy must submit a written grievance to the Investigator within time period proscribed in the SPA Grievance Policy.

I. **Formal Administrative Review Process:**

- a. The [Investigator](#) will have complete responsibility for conducting the investigation and making a University decision on the complaint. This investigation and decision constitute the Administrative Review Process.
- b. In most cases, the Administrative Review Process should conclude within 60 calendar days. If more time is needed, the Investigator will notify both the employee Complainant and the employee Respondent as to the length of extra time needed and reasons for the delay.
- c. The purpose of Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint, to determine whether the employee Respondent has violated the this Policy and to equitably address the concerns in order to resolve the complaint. If the Investigator concludes that the policy has been violated, the Investigator will also determine whether the employee is entitled to the relief requested or to other relief, and whether to recommend disciplinary sanction for the violator.
- d. The [Investigator](#) may conduct the investigation directly, or may enlist one or more others to assist him/her with the investigation and prepare reports and recommendations for the Investigator; however, in any event, the final decision reached will be that of the Investigator. In subsequent sections of this procedure, persons designated by the Investigator to conduct or assist in the investigation are also referred to as the Investigator.
- e. Resolution of the complaint by mutual agreement of the parties is encouraged. The employee Complainant or the employee Respondent may at any time during the course of the investigation propose such an agreement to the Investigator, who is authorized to assist the parties in resolving the matter by agreement.
- f. The scope of the investigation will be determined by the Investigator in his/her discretion and according to the charge and the facts.
- g. The method of investigation shall be within the discretion of the Investigator. However, the following requirements should be observed:
 - i. The Investigator's decision shall be based solely upon the written complaint and evidence received during the investigation. All evidence collected during the investigation shall be preserved. All spoken evidence should be tape recorded.
 - ii. Both the employee Complainant and the employee Respondent may be accompanied by another member of the University community who is not an attorney to provide support and assistance during meetings with the Investigator throughout the course of the investigation, so long as the individual does not interfere with the Investigator's ability to conduct the investigation. Neither the employee Complainant nor the employee Respondent is permitted to have an attorney present during these proceedings.
 - iii. The employee Complainant will be provided a reasonable opportunity to present his/her evidence supporting the charge in the form of documents, interviews, and the employee's and others' direct testimony about the facts alleged. As to any evidence collected during the investigation, the Investigator may ask questions or request additional information and may refuse to consider any evidence submitted which he/she concludes is repetitious, irrelevant, or otherwise without sufficient value to the investigation.
 - iv. After receiving the initial evidence from the employee, the Investigator will interview the employee Respondent and any other persons who may have

information relevant to the investigation. Multiple interviews may be conducted as may be necessary with the employee Complainant, the employee Respondent, or any other person to aid the Investigator in understanding the facts and issues related to the grievance. Likewise, the investigator may obtain any University record deemed necessary to the investigation and may request from the participants or other sources any documents which will be of assistance.

- v. The Investigator should maintain a written timeline of each action taken during the investigation process, including but not limited to, dates of all investigatory steps, individuals interviewed, documents reviewed, and other evidence gathered.
- vi. After receiving evidence as provided in paragraphs iii. and iv. above, the Investigator will prepare a written Draft Findings Report in keeping with guidelines developed by the Director of Human Resources regarding content and format².
- vii. The Investigator will deliver the Draft Findings Report to the Director of Human Resources.
- viii. The [Director of Human Resources](#) will review for completeness and compliance, and will either provide feedback for changes or for the inclusion of additional information or will approve the Draft Findings Report as written.
- ix. After considering any feedback provided by the Director of Human Resources, the Investigator will reach a final decision. If the decision is that the employee Respondent has violated the policy, the Investigator will obtain the confidential records of prior incidents involving the employee Respondent, if any, and will consider such records in any recommendation to impose disciplinary penalties on the person found to have violated the policy.
- x. The investigator will prepare a Final Report (in keeping with the Director of Human Resources' guidelines) summarizing the relevant facts found during the investigation and explaining the basis for the conclusion that the employee Respondent has or has not violated the Policy on Prohibited Harassment, Including Sexual Misconduct and Discrimination.
- xi. If the Final Report concludes that the employee Respondent has not violated the Policy, the Investigator will so notify the employee Respondent via a written Outcome Letter.
- xii. If the Final Report concludes that the employee Respondent has violated the Policy, the Investigator should also indicate what relief if any the complainant should receive and may include recommendations for disciplinary sanctions.
- xiii. The Investigator shall deliver the complete Final Report to the employee's immediate supervisor for determination of appropriate remedial or disciplinary action, if any, in accordance with existing institutional policies and procedures. The Director of Human Resources, the appropriate dean or department head, and General Counsel will also receive copies. Any recommendation for dismissal, suspension, or demotion shall proceed in accordance with applicable University policies.
- xiv. The employee Respondent's immediate supervisor will prepare an Outcome Letter to the employee which includes:
 1. a summary of the relevant facts found as a result of the investigation;

² This report will include the Complainant's and Respondent's names, the facts of the case, any statements received, a timeline of the investigation, copies of all documents gathered; and the investigator's preliminary decision regarding whether the actions violated this policy.

2. an explanation of the basis for the decision that the employee Respondent violated this Policy;
 3. Notice of disciplinary sanctions or other remedial measures instituted because of the violation; and
 4. any other action that the immediate supervisor deems to be appropriate.
- xv. The complainant employee will receive no information about disciplinary sanctions or remedial measures unless those sanctions or measures directly impact the employee. (Ex: Respondent is not to be within 500 feet of complainant.)
 - xvi. The Final Report, with the evidence collected during the investigation, will be filed in Human Resources.
 - xvii. After the Investigator has completed the Final Report, the employee Respondent may appeal the disposition of the investigation via existing University policies covering grievance procedures prescribed for individuals in that category of employment (SPA, EPA-NT, Faculty).

Grievance Procedure for Employees Alleging Violation by a Student

Allegations of prohibited harassment, including sexual misconduct or discrimination by *a student against an employee* may be considered a major violation as defined in the UNCOSA Student Code of Conduct, and are addressed by [Appendix B](#) to the UNCOSA High School and College Student Code of Conduct, UNCOSA Disciplinary Process for Major Violations.

Appendix B: UNCSA Disciplinary Process for Violations of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination

Overview and Purpose

The University of North Carolina School of the Arts (UNCSA) expects all members of its community to act in respectful and responsible ways towards each other. UNCSA is committed to providing programs, activities and an educational environment free from harassment, sexual misconduct and discrimination. This Procedure statement sets forth resources available to students and establishes a process for responding to reports of harassment, sexual misconduct or discrimination.

As a recipient of Federal funds, UNCSA is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in education programs or activities. Sexual Misconduct, as defined in this Handbook, is a form of sex discrimination prohibited by Title IX.

As a public institution, UNCSA must also provide due process to students accused of harassment (including domestic violence, dating violence, and stalking), sexual misconduct or discrimination. This Procedure is designed to provide a fair process for both the Complainant and the Respondent. Consistent with due process, an Accused Student is presumed not responsible until proven otherwise under the Student Code of Conduct.

Scope

Any student who believes that he/she has been harassed, subject to sexual misconduct, or discriminated against **by another University student** based upon his/her on race, color, gender, age, national origin, religion, creed, genetic information, disability as defined by N.C.G.S. § 168A-3, veteran’s status, sexual orientation, gender identity, or gender expression (these classifications are considered a “Protected Status” for the purposes of this Procedure) may proceed according to this Procedure.

Please refer to [UNCSA Policy #117 Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination](#) for more information.

Definitions

1. “**Complainant**” means a student who files a harassment, sexual misconduct or discrimination allegation against another student with UNCSA officials.
2. “**Final Administrative Decision**” means the Dean of Students’ formal decision of responsibility and sanctions based on the findings and recommendations from the Judicial Hearing Board or resulting from the Respondent student’s plea of “responsible.” The decision is effective immediately upon issuance and remains in effect pending the outcome of subsequent appeal process, if any.
3. “**Judicial Coordinator**” means the individual who convenes the Judicial Hearing Board. They are responsible for scheduling and notification of the parties regarding any judicial hearing. If the cited student is in college, the UNCSA Assistant Director of College Life serves in this capacity. If the cited student is in high school, the Associate Director for High School Life serves in this capacity.

4. “**Judicial Hearing Board**” means the body which hears testimony, reviews evidence, and issues a recommendation of responsibility and sanction when a Respondent student contests a charge. The Judicial Hearing Board is composed of five (5) voting members empanelled by the Assistant Director of College Life – Judicial Affairs from a pool of trained individuals (the “Judicial Hearing Board Pool”). The five voting members will include:
- One member from Student Affairs;
 - One member from Academics;
 - One member from any of the Arts Schools other than the cited student’s; and
 - Two at-large members randomly selected from the Judicial Hearing Board pool of faculty and staff.

The pool from which the above board members are selected will include:

- Four representatives from Student Affairs staff;
- Four representatives from High School and the Division of Liberal Arts faculty and staff; and
- Three faculty members from each of the Arts schools (Dance, Drama, Film, Music, Design and Production).

For a more in-depth description of the Judicial Hearing Board pool, please refer to Appendix B.

5. “**Major Infraction Hearing**” If a student is cited with a Major Violation, he/she may request a judicial hearing before the Judicial Hearing Board. A finding of responsible in a Major Infraction Hearing may result in sanctions ranging from suspension to expulsion. The Major Infraction Hearing occurs before a 5-member board, which has the authority to determine responsibility and make a recommendation for sanction.
6. “**Process Review Board**” means the administrative body that reviews major infraction hearings to ensure compliance with due process and sufficiency of evidence. The Process Review Board is composed of three voting members and one advisor:
- Chair of the Conduct Policy Committee;
 - Associate Provost; and
 - Director of Residence Life Programs & Housing
- **General Counsel will serve in a non-voting advisory capacity
7. “**Respondent**” means the student against who an allegation of harassment, sexual misconduct or discrimination has been reported.
8. “**Student Affairs Deputy Coordinator**” means the individual responsible for investigating incidents, determining what citations to issue, and handling administrative matters to ensure effective and efficient functioning of the major infraction hearing process. The UNCOSA Assistant Director of College Life serves in this capacity whether the cited student is in college or in high school.
9. “**Student Code of Conduct**” means the College and High School Student Handbooks, Student Code of Conduct, Chapter II of which this Procedure is an Appendix.
10. “**University**” means the University of North Carolina School of the Arts (UNCOSA)

Reporting Process

- B. Students are encouraged to report violations of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination by another student to any one of the following:
- a. [Student Affairs Deputy Coordinator](#)
 - b. [Dean of Students](#)
 - c. [Director of Residence Life](#)
 - d. [Their respective Art School Dean or Academic Dean](#)
 - e. [Campus Police](#)
 - f. [General Counsel](#)

When one of the above administrators receives a student report of prohibited harassment, sexual misconduct or discrimination by another student, the administrator should notify the [Student Affairs Deputy Coordinator](#) in the [Dean of Students](#)' Office immediately or as soon as possible.

2. Students are encouraged to report prohibited harassment, sexual misconduct or discrimination immediately or as soon as possible. The complainant has the right to notify proper law enforcement authorities, including campus police, be assisted by campus officials in notifying law enforcement authorities if he/she chooses, or decline notification to such authorities in cases of prohibited harassment, sexual misconduct or discrimination.
3. Any other University employee who receives notice of a student's allegation of violations of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination must notify the Student Affairs Deputy Coordinator immediately or as soon as possible.
4. Regardless of the wishes of a minor student, an investigation into allegations of a violation of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination is mandatory. In cases involving adult students, an investigation will occur if the student consents. Additionally, the University will conduct an investigation without the reporting student's consent if necessary to protect UNCSCA or the UNCSCA community.

Intake Meeting

- I. Intake Meeting with the Complainant: Upon receipt of notice of any allegation of violations of the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination by a University student, the Student Affairs Deputy Coordinator will promptly schedule an individual meeting with the Complainant.

Prior to the meeting, the [Student Affairs Deputy Coordinator](#) will:

- a. Review the written complaint for completeness, or if Complainant has not yet completed a written complaint, direct them to do so and file with the Student Affairs Deputy Coordinator.
- b. Determine whether the facts alleged in the complaint, if true, could constitute a violation of the Policy on Prohibited Harassment, Including Sexual Misconduct, and

Discrimination. If not, the [Student Affairs Deputy Coordinator](#) may ask the student Complainant to clarify or amplify the statement, may refer the Complainant to another appropriate grievance process, or may dismiss the complaint. The Complainant may appeal a decision to dismiss the complaint to the [Chancellor](#) or his/her Designee.

During the meeting, the [Student Affairs Deputy Coordinator](#) will:

- f. Make written notes of the allegations;
- g. Provide the Complainant a general understanding of these Regulations;
- h. Identify forms of support or immediate interventions available to the Complainant, including the Student Affairs Deputy Coordinator's issuance of a no contact order, restrictions upon entering certain parts of campus, and/or other measures designed to promote the safety and well-being of the parties;
- i. Discuss any accommodations or interim measures that may be appropriate concerning the Complainant's academic, art, University housing, and/or University employment arrangements.

Disciplinary Correspondence: All disciplinary correspondence will be sent to the student's campus post office box and UNCSA email account and may be sent to other locations if appropriate.

- J. Complainant Does Not Wish to Proceed with the Complaint or Requests Confidentiality: If the Complainant does not wish to proceed with the complaint, the University may still be required by law to investigate the allegations and take appropriate responsive measures. Similarly, although the University seeks to address a Complainant's concerns about harassment, sexual misconduct or discrimination in these circumstances, the University may not be able to honor a Complainant's request that his/her identity remain confidential. Even where the University is able to honor a Complainant's request to protect his/her confidentiality, the Student Affairs Deputy Coordinator will inform the Complainant that the University's ability to fully respond to the complaint may be limited if the Complainant insists on confidentiality.

In general, the University will weigh a Complainant's request for confidentiality or the Complainant's desire that the University take no action on his/her complaint against the following factors:

- The seriousness of the alleged harassment, sexual misconduct, or discrimination;
- Whether there have been other complaints of harassment, sexual misconduct, or discrimination involving the same Respondent; and
- The Respondent's right to receive information about the allegations, as applicable in accordance with the Family Educational Rights and Privacy Act (FERPA).

If a Complainant is less than 18 years of age, the [Student Affairs Deputy Coordinator](#) may have a legal obligation to report certain instances of harassment and sexual misconduct to the North Carolina Division of Social Services or to other persons or organizations as required by law.

- K. Limited Immunity: The University considers the reporting and resolution of Prohibited Harassment, Sexual Misconduct, and Discrimination cases to be of paramount importance. If during any investigation, any other lesser violations of the UNCSA Student Code of Conduct are reported, the violations may or may not be cited. But, in any case, fear of being cited for a lesser violation should not inhibit a Complainant's report. Please note that either party's use of drugs or alcohol does not affect the Complainant's right to make a report. [Click here](#) for more information about "consent."

Preliminary Investigation

The [Student Affairs Deputy Coordinator](#) will oversee all investigations and determine whether there is sufficient evidence to pursue a citation. This determination shall be made within thirty calendar days after the initiation of the allegation.

- a. The Student Affairs Deputy Coordinator may conduct the investigation directly, or may enlist one or more others to assist him/her with the investigation and to prepare reports and recommendations to the Student Affairs Deputy Coordinator; however, in any event, the final decision reached will be that of the Student Affairs Deputy Coordinator.
- b. The scope of the investigation will be determined by the Student Affairs Deputy Coordinator in his/her discretion and according to the complaint and the facts.
- c. The method of investigation shall be within the discretion of the Student Affairs Deputy Coordinator. However, the following requirements shall be observed:
 - i. The Student Affairs Deputy Coordinator 's decision shall be based solely upon the written complaint and evidence received during the investigation.
 - ii. Both the Complainant and the Respondent may be accompanied by another member of the University community who is not a licensed attorney to provide support and assistance during meetings with the Student Affairs Deputy Coordinator throughout the course of the investigation, so long as the individual does not interfere with the Student Affairs Deputy Coordinator 's ability to conduct the investigation. Neither the Complainant nor the Respondent is permitted to have an attorney present during these proceedings.
 - iii. The Complainant will be provided a reasonable opportunity to present his/her evidence supporting the allegation in the form of documents, interviews, and the Complainant's and others' direct testimony about the facts alleged. As to any evidence collected during the investigation, the Student Affairs Deputy Coordinator may ask questions or request additional information and may refuse to consider any evidence submitted which he/she concludes is repetitious, irrelevant, or otherwise without sufficient value to the investigation.
 - iv. After receiving the initial evidence from the student, the Student Affairs Deputy Coordinator will interview the Respondent and any other persons who may have information relevant to the investigation. Multiple interviews may be conducted as may be necessary with the Complainant, the Respondent, or any other person to aid the Student Affairs Deputy Coordinator in understanding the facts and issues related to the grievance. Likewise, the Student Affairs Deputy Coordinator may obtain any University record deemed necessary to the investigation and may request from the participants or other sources any documents which will be of assistance.

Upon making the determination of whether there is sufficient evidence to pursue a citation, the Student Affairs Deputy Coordinator will:

- a. Dismiss the allegation because the facts are insufficient to support a finding of responsible. The Complainant may appeal a decision to dismiss the complaint to the Chancellor or his/her Designee;
- b. Recommend the allegation for Informal Resolution conducted by the Office of the Dean of Students.
 - i. Informal Resolution will not be utilized as a means for resolving allegations of sexual misconduct.
 - ii. In the event that the Student Affairs Deputy Coordinator recommends Informal Resolution, implementation of interim or protective measures may still be appropriate; or
- c. Issue a written summons, which includes the specific citations, possible sanctions, and a brief recitation of the allegations supporting the citation. If expulsion is a possible sanction, the summons will inform the Respondent student that that expulsion precludes matriculation at any UNC constituent institution. The summons will inform the Respondent student of the following options for resolution of the disciplinary charges:
 - i. Plead responsible to the citation(s), accept the sanction determined by the Student Affairs Deputy Coordinator or designee, and provide a signed written acceptance to that effect to the Student Affairs Deputy Coordinator or designee. In the case of a waiver of hearing and acceptance of the sanction, the Process Review Board must determine that this action is voluntary by reviewing the signed acceptance and, if necessary, interviewing the Respondent and the Student Affairs Deputy Coordinator or designee to determine that the citation and sanction have factual support. The Process Review Board will forward the judicial file to the Dean of Students. The Dean of Students will send the final judicial decision letter to the student. An Outcome Letter will be sent to the Complainant summarizing the admitted facts and the conclusion that the Respondent violated the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination. The Complainant student will receive no information about disciplinary sanctions or remedial measures unless those sanctions or measures directly impact the student. (Ex: Respondent is not to be within 500 feet of student.)
 - ii. Plead “not responsible” and request a judicial hearing. The Judicial Coordinator or designee shall provide the Respondent a written notice of time, place, and format of the hearing. This notice of the hearing will be sent to the student’s campus post office box and UNCSA email account and may be sent to other locations if appropriate.

Prior to the Hearing

NOTE: Prohibition on *Ex Parte* Contact: No member of the University Community (or person acquainted with the case, including parents) should initiate any contact with any member of the Process Review Board, the Judicial Hearing Board, the Judicial Hearing Board pool, the Dean of Students, the Chancellor, or members of the Board of Trustees concerning the case. Any student or employee who so communicates or attempts to so communicate will be subject to discipline for that conduct. Further, if the cited student engages in that behavior or requests, encourages, or otherwise facilitates such communication, that student forfeits his/her right to an appeal.

The Respondent:

1. May arrange for witnesses to appear on his/her behalf. The Respondent shall notify the [Judicial Coordinator](#) at least 72 hours in advance of the scheduled hearing of the names of any additional witnesses for his/her presentation of the case and provide a written explanation of why the witness is relevant to the proceeding. Aside from character witnesses, as noted below, only witnesses that have information or evidence pertinent to the investigation may be called and questioned in the hearing. The Respondent student is responsible for the attendance of his/her witnesses. Witnesses called to a hearing during scheduled class time must have their absence waived in writing prior to the appearance. Witnesses must formally request this absence, in writing, from the appropriate instructor(s).
2. May present testimony (either live or in written form) from no more than three character witnesses. Written statements must not exceed five hundred words and must be submitted to the Judicial Coordinator no less than 72 hours prior to the hearing. Names of character witnesses appearing at the hearing must be included in the list of witnesses furnished at least 72 hours before the hearing.
3. May ask a friend/advisor to assist in preparing and presenting his/her case. The Respondent may select a current UNCSA student, staff or faculty member to serve as friend/advisor. This advisor may prepare the Respondent's case and present it to the hearing board or support the case presented by the Respondent. Anyone reporting directly to the Chancellor, Chief Academic Officer or Chief Operating Officer may not serve as friend/advisor.
4. Has the right to review all written information, documents, exhibits, and a list of witnesses who may testify against him/her at least 24 hours before the hearing.
5. Will be informed by the Judicial Coordinator of the Judicial Hearing Board's membership no less than one week prior to the hearing. The Respondent may request a substitute for anyone he/she believes to be biased. To support such a request, the Respondent must provide a written statement which details the basis for the Respondent's belief of bias sufficiently to enable the Judicial Coordinator to make a determination. The Judicial Coordinator will determine whether the substitution should be granted within five (5) days of the request. If the Judicial Coordinator determines that a substitution is unnecessary, the Coordinator will give the student a written explanation of the basis for that decision.
6. **Will keep the membership of the Judicial Hearing Board confidential and will not disclose that membership to his witnesses or other members of the campus community. A student who violates this provision forfeits his/her right to a hearing and shall be held responsible for the alleged violation.**

The Complainant:

1. May arrange for witnesses to appear on his/her behalf. The Complainant shall notify the Judicial Coordinator at least 72 hours in advance of the scheduled hearing of the names of any additional witnesses for his/her presentation of the case and provide a written explanation of why the witness is relevant to the proceeding. Aside from character witnesses, as noted below, only witnesses that have information or evidence pertinent to the investigation may be called and questioned in the hearing. The Complainant student is responsible for the attendance of his/her witnesses. Witnesses called to a hearing during scheduled class time must have their absence waived in writing prior to the appearance. Witnesses must formally request this absence, in writing, from the appropriate instructor(s).
2. May present testimony (either live or in written form) from no more than three character witnesses. Written statements must not exceed five hundred words and must be submitted to the Judicial

Coordinator no less than 72 hours prior to the hearing. Names of character witnesses appearing at the hearing must be included in the list of witnesses furnished at least 72 hours before the hearing.

3. May ask a friend/advisor to assist in preparing and presenting his/her case. The Complainant may select a current UNCSCA student, staff or faculty member to serve as friend/advisor. This advisor may prepare the Complainant's case and present it to the hearing board or support the case presented by the Complainant. Anyone reporting directly to the Chancellor, Chief Academic Officer or Chief Operating Officer may not serve as friend/advisor.

4. Has the right to review all written information, documents, exhibits, and a list of witnesses who may testify on behalf of the Respondent student at least 24 hours before the hearing.

5. Will be informed by the Judicial Coordinator of the Judicial Hearing Board's membership no less than one week prior to the hearing. The Complainant may request a substitute for anyone he/she believes to be biased. To support such a request, the Complainant must provide a written statement which details the basis for the Complainant's belief of bias sufficiently to enable the Judicial Coordinator to make a determination. The Judicial Coordinator will determine whether the substitution should be granted within five (5) days of the request. If the Judicial Coordinator determines that a substitution is unnecessary, the Coordinator will give the student a written explanation of the basis for that decision.

6. Will keep the membership of the Judicial Hearing Board confidential and will not disclose that membership to his witnesses or other members of the campus community. A student who violates this provision forfeits his/her right to a hearing and shall be held responsible for the alleged violation.

The Judicial Hearing Board Members:

1. Have the opportunity to review the written materials pertinent to the case at least 24 hours in advance of the hearing. More time for review may be granted on a case-by-case basis at the discretion of the Judicial Coordinator.
2. Must self-recuse if he/she has a conflict with, bias about, or an interest in the case. If a Board member fails to recuse himself/herself, the Judicial Coordinator shall make the recusal decision in writing to the Process Review Board.
3. Must promptly report to the Process Review Committee any pre-hearing contact by the reporting party, the cited student, parents, or any members of the UNCSCA community concerning the matter which is the subject of the hearing. The Judicial Coordinator will consider this information and determine whether the Judicial Hearing Board member should be recused and replaced.

At the Judicial Hearing

Individuals Permitted or Required to attend the Judicial Hearing

1. The Judicial Hearing Board as defined above.
2. The Respondent. The Respondent is expected to appear at the hearing at the scheduled time. If the Respondent should fail to appear without reasonable cause, the board reserves the right to proceed with the presentation of the evidence and find the Respondent either responsible or not responsible "in absentia."
3. A friend/advisor to the Respondent or Complainant as noted above.
4. The Respondent's parents and the Complainant's parents. At the request of either student, the student's parents may be present at the hearing, but may not directly participate in the proceedings.
5. The Complainant or representative. If reasonably possible, the Complainant will attend the hearing. If unable to attend, the Complainant will designate someone to attend on his/her behalf. If the Complainant

designates a representative to present his/her case, the representative must be a member of the University community and may not be a licensed attorney. The Complainant must present sufficient witness and/or documentary evidence to establish the violation. The Respondent must be given an opportunity to question this evidence.

6. Witnesses called by the Respondent, Complainant, or Judicial Hearing Board. Called witnesses may remain in attendance only during the time of their testimony.

7. Attorneys may not represent a student or be present during any judicial hearing. If the offense charged is also the subject of pending criminal charges, the institution must allow an attorney/advisor to accompany the student to the hearing. The attorney may not participate. The attorney may confer with the student during the hearing so long as the attorney does not address the hearing official or committee or other parties or witnesses and does not delay or disrupt the proceeding.

Judicial Hearing Process and Procedures

1. All Judicial Hearing Board meetings are closed.

2. The hearing will be held no sooner than ten (10) days after the student elects to have a hearing unless the student agrees to an earlier hearing date.

3. All members of the Board, the Respondent, and the Complainant or designee will be notified by the Judicial Coordinator at least five (5) days in advance of the place, date and time for the hearing.

4. The proceedings will be recorded by UNCSA. The recording will remain the property of UNCSA.

5. The Judicial Coordinator calls the meeting to order and conducts the meeting. The Judicial Coordinator serves as a reporter and will operate recording equipment to preserve the actual testimony. However, under no circumstances will the Judicial Coordinator ever sit on the Judicial Hearing Board or participate in deliberations.

6. During the hearing, the Complainant and the Respondent shall have the opportunity to present evidence and defenses through relevant witness testimony and documentary evidence that does not otherwise infringe on the rights of other students.

7. The Complainant and the Respondent may submit questions to the Judicial Hearing Board to be asked of the witnesses testifying before the panel. However, the Complainant and Respondent will not be permitted to ask questions directly of one another.

8. The Judicial Hearing Board reserves the right to call anyone to the hearing that may aid in its determination of responsibility.

9. Issues regarding admission of evidence or testimony, including relevancy and the reliability of evidence and testimony will be determined by the Judicial Hearing Board during the hearing. In cases of sexual misconduct, irrelevant sexual history of either party may not be discussed during the hearing.

10. All persons who give information to the Board are required to report facts honestly. Knowingly giving false information to the Board constitutes an infraction of the Student Code of Conduct.

11. At the conclusion of the presentation of the evidence, all voting Judicial Hearing Board members will deliberate in private. General Counsel, if requested by a majority of the Judicial Hearing Board members, may be present for the deliberations to provide advice on policy matters, but shall not participate in the decision. No one else, including the Judicial Coordinator, the Complainant and the Respondent, may attend. The deliberations will not be recorded.

12. During its deliberations, the Judicial Hearing Board will determine by majority vote whether it has been shown, by a preponderance of the evidence (*"more likely than not"*), that the Respondent is responsible for the offense alleged. This determination will be based solely on the evidence presented at the hearing. The Board will prepare its written decision, including a summary of the facts, a rationale for the decision reached, and a recommendation of sanctions, if any, from the range published in the Code of Conduct. This document shall be prepared within five (5) days of the hearing's conclusion.

Following the Judicial Hearing: Subsequent Proceedings:

1. If the Respondent is found “not responsible” for a violation of the Prohibited Harassment, Sexual Misconduct, and Discrimination policy, the Judicial Hearing Board may work with the parties and witnesses as it deems appropriate to determine if any further action or recommendation (*such as mediation or institution of lesser charges*) should be taken.
2. If the Board determines that the Respondent is responsible, the Board will submit the written recommendation of responsibility and sanction to the Process Review Board within five (5) calendar days. This recommendation will briefly summarize the evidence upon which the decision is based.
3. The Process Review Board will review the record to ensure that the evidence supports the findings, the cited student was given due process, and that the procedures set forth by the UNC Board of Governor’s ***Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings*** were followed. Depending on the outcome of that review, the Process Review Board may:
 - I. remand it for a new hearing (*or other appropriate proceedings*) before the Judicial Hearing Board;
or
 - II. forward the recommendation to the Dean of Students for the Final Administrative Decision.The Process Review Board will make its decision within ten (10) days of receiving the information from the Judicial Hearing Board.
4. The Dean of Students will make all Final Administrative Decisions in cases involving suspension and expulsion within ten (10) calendar days after receiving the recommendation from below. Any modification of the Judicial Hearing Board’s decision may not be arbitrary or capricious; reasons for any deviation in findings or sanctions must be documented. The Respondent student will be notified, in writing, of the Final Administrative Decision, the evidence supporting the decision and of the right to appeal within ten (10) calendar days of the decision.
5. If the final decision is suspension or expulsion, separation from UNCUSA is effective immediately. The Respondent student will leave campus and is banned from any school property. If the sanction is expulsion, the sanction applies to all UNC constituent institutions.
6. Concurrent with Final Administrative Decision notification to the Respondent, The Dean of Students will notify the Complainant student in writing, via an Outcome Letter summarizing the Board’s findings of fact and the conclusion that the Respondent violated the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination. The Outcome Letter will include appeal procedures, when appropriate. The Complainant student will receive no information about disciplinary sanctions or remedial measures unless those sanctions or measures directly impact the student. (Ex: Respondent is not to be within 500 feet of student.) In addition, the Complainant will be notified of any change of the result before it becomes final and the result when it becomes final (i.e. after the conclusion of the appeals process).

Appeals Process

Both the Complainant and the Respondent will be informed of the right to request review by the Chancellor. The student must submit a written request through the Process Review Board within five (5) calendar days after notification of the Final Administrative Decision. The request must allege either: a. **material violation of due process**. For purposes of evaluating whether the basic rights of a Complainant or Respondent were violated, the Chancellor shall determine whether a preponderance of evidence demonstrates that a party’s basic rights, as provided by this procedure, the Policy on Prohibited Harassment, Including Sexual Misconduct, and Discrimination, or under the policies of the Board of

Trustees or Board of Governors, were violated and, if so, whether the violation prejudiced the outcome of the hearing so as to necessitate a remand for a new hearing; and/or

b. Inadequate or excessive sanction.

Additionally, the request must cite facts and evidence in the record to support the alleged grounds of appeal noted above.

1. The Chancellor will review the record and make a determination and notify the student within ten (10) days of the request for appeal. The student does not have the right to appear before the Chancellor.

2. **Only in cases where the sanction imposed is expulsion**, the student may request a further appeal to the UNCOSA Board of Trustees via its Committee on Educational Planning and Policies/Student Affairs. The student must submit a written request for appeal to the Assistant Secretary of the Board of Trustees within five (5) calendar days after notification of the Chancellor's decision. The request must allege either:

- a. A violation of due process; or
- b. A material deviation from the substantive or procedural standards adopted by the Board of Governors.

The review may not be scheduled until the next regularly scheduled committee meeting or later, depending on the committee's availability. The appeal shall be "on the record" and the student will not attend the review.

The Board of Trustees will forward its written decision to the student within ten (10) days of the decision. If the decision is to uphold an expulsion, the letter shall include instructions informing the former student that he/she may request that the UNCOSA Board of Trustees forward the record to the UNC Board of Governors for one final appeal. If the Board of Trustees determines that the sanction should be reduced, the Dean of Students shall be informed and the entry in the UNC Suspension and Expulsion database will be amended accordingly. The student will be informed of the decision in writing.

3. A former student may apply for reenrollment at UNCOSA or to any other UNC constituent institution once the prescribed long-term suspension has been served. Reapplication is not a guarantee that the student will be allowed to return to UNCOSA. In cases involving expulsion, the student may request a final appeal to UNC Board of Governors, which will be conducted in accordance with that Board's policies and procedures. The review will be "on the record" and the student will not be permitted to attend the review.

Notes on Special Cases

1. Pursuant to the Campus Security Act, in cases of alleged sexual misconduct, the Complainant and the Respondent are entitled to have the same opportunities to have others present during a disciplinary proceeding. Moreover, in cases of alleged sexual misconduct, certain measures may be taken during the hearing to protect the wishes and privacy of student Complainants, including but not limited to the use of privacy screens, different rooms or video conferencing.
2. Pursuant to FERPA, victims of violent crimes must be notified of the results of the disciplinary proceeding of the alleged assailant. "Results" means the name of the student assailant, the violation charged or committed, the essential findings supporting the conclusion that the violation was committed, the sanction(s) if any that directly impact the Complainant (i.e. that the Respondent is ordered to stay away from the Complainant, that the Respondent is prohibited from attending school for a period of time, or transferred to other classes or another residence hall), the duration of the sanction and the date the sanction was imposed.

3. When a student with a disability is charged with an offense, the institution will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act are met.
4. Charges against multiple students involved in the same incident may be heard in a single case only if each student defendant consents in writing to the Judicial Coordinator to such a proceeding.

Additional Aid and Resources

1. Obtain Information and Emotional Support

It is important that the victims of Prohibited Harassment, Sexual Misconduct or Discrimination receive support and information, and resources are available to students by the University. Members of the UNCSCA Campus Police or Wellness Center are available to all students on a 24-hour basis to consult with a victim on the phone, to accompany them to Student Health or to the hospital and to provide information about legal and judicial options. University Counseling Center staff members are also available on a 24-hour basis, and can help victims begin the recovery process.

2. Seek Medical Attention in Instances of Sexual Assault

Local options for medical care include UNCSCA Student Health Services, Wake Forest Baptist Medical Center, and Forsyth Medical Center. It is crucial to obtain medical attention as soon as possible after a sexual assault to determine the possibilities of physical injury, to prevent sexually transmitted diseases (such as HIV), and to prevent pregnancy. Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (“date-rape drugs”).

It is important to have an evidence collection kit (or “rape kit” completed within 72 hours if a victim wants to file legal or judicial charges or if a victim may want to consider filing charges at a later date. Wake Forest Baptist Medical Center and Forsyth Medical Center administer collection kits and students may go directly to either hospital. UNCSCA Health Services may refer students to either hospital.

In order to preserve evidence for an evidence collection kit, the victim should avoid showering, bathing, going to the bathroom or brushing his/her teeth. He or she should also wear the same clothing or take the clothes they were wearing during the assault in a paper bag (not plastic) to the hospital. However, an evidence collection kit can still be completed even in the victim has showered or bathed. The victim may want to be accompanied to the hospital by a friend or a member of the Student Health Services staff.

At the hospital, a physician will briefly screen the victim, and a forensic nurse trained in evidence collection procedures will conduct the examination, collecting hair, fluid and tissue samples. When obtaining an evidence collection kit, students have the option of filing an official police report immediately or having a “Jane Doe kit” collected which allows the evidence to remain anonymous until the student chooses to make an official police report. The cost of the evidence collection kit can often be paid for confidentially through funds provided by the state of North Carolina.

3. Important Contact Information

- a. On campus emergency from cell phone: (336) 770-3362
- b. On campus emergency from campus phone: Dial 55
- c. Non-emergency: (336) 770-3321
- d. Anonymous crime reporting: (336) 770-1414
- e. OFF-CAMPUS emergency: Dial 911
- f. Health/Counseling Services: (336) 770-3288 (Located in the Upper Level of Hanes Student Commons)
- g. College Life: (336) 770-3282
- h. High School Life (336) 770-3281
- i. Student Affairs Deputy Coordinator: (336-631-1215)

Community Resources

- a. Sexual Assault Response Program
(24 hour rape crisis service sponsored by Family Services): (336) 722-4457
- b. Forsyth Medical Center Emergency Department: (336) 718-2001
- c. Wake Forest Baptist Medical Center Emergency Department: (336) 713-9000
- d. Winston-Salem Police or Forsyth County Sheriff's Department: 911
- e. National Sexual Assault Crisis Line: 1-800-656-4673
- f. National Online Hotline: <https://ohl.rainn.org/online/>
- g. Protective Orders/Legal Advocacy: 7th Floor, Forsyth County Hall of Justice
- h. Counseling and Support Groups (Family Services of Forsyth County): (336) 723-4357