

## PROHIBITED HARASSMENT PROCEDURE

### I. INTRODUCTION

#### A. Purpose of policy

(i) UNCOSA 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, UNCOSA believes that a climate of honesty, civility, common courtesy, mutual respect and non-discrimination is necessary.

(ii.) UNCOSA prohibits discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972 (Title IX), and as part of its commitment to a community free of discrimination, harassment, and violence. UNCOSA will not tolerate discrimination, sexual harassment, misconduct, violence, or any other prohibited conduct detailed in this Policy, at any time or under any circumstances.

#### B. Statement of institutional values

(i.) UNCOSA provides gifted emerging artists with experience, knowledge, and skills needed to excel in their disciplines and in their lives, and it serves and enriches the cultural and economic prosperity of the people of North Carolina and the nation. UNCOSA is the state's unique professional school for the performing, visual and moving image arts, training students at the high school, undergraduate and master's level for professional careers in the arts. UNCOSA is committed to providing a learning, teaching, and working environment free from sex discrimination, sexual harassment, sexual misconduct, and sexual violence, and one that is safe for all members of the campus community.

#### C. Scope

(i.) This policy applies to all UNCOSA programs and activities on and off campus.

(ii.) This prohibition applies to all UNCOSA employees, students, and others under UNCOSA control who may come into contact with a member of the UNCOSA community.

(iii.) The University will take steps to prevent recurrence of harassment and to correct discriminatory effects on the complainant and others, if appropriate.

**D. Coordination with other policies**

(i.) This policy addresses treatment of discrimination and harassment under Title IX of the Education Amendments of 1972. However, the alleged acts may also be subject to other UNCSEA and UNC Board of Governors policies, criminal and civil laws, and controlling procedures for reporting, adjudication, grievances, and disciplinary codes.

(ii.) These policies may include, but are not limited to:

[UNC Code Appendix I](#);

[UNC Policy Manual § 300.4.1](#);

[UNCSEA 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](#);

[Title IX Policy 121](#)

**II. Notice of non-discrimination**

**A. Dear Colleague Letter (DCL) language**

(i.) UNCSEA 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, genetic information, disability, veteran's status, sexual orientation, gender identity or gender expression (hereinafter his/her "protected status.") UNCSEA is required not to discriminate in such a manner, according to Title IX of the Education Amendments of 1972.

**B. State and federal law re: protected classes**

(i.) For the purpose of this policy, "Protected Status" means an individual's race, color, gender, age, national origin, religion, genetic information, disability, veteran's status, sexual orientation, gender identity, or gender expression.

**III. Definition of sexual harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct.

#### A. **Examples of types of conduct**

(i.) Sexual harassment is a form of discrimination, and can take two forms: quid pro quo and hostile environment.

- Quid pro quo harassment occurs when a school employee explicitly or implicitly conditions a student's participation in an education program or activity or basis an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid pro quo harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm.
- Hostile environment harassment occurs when unwelcome conduct of a sexual nature is sufficiently serious that it affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. A hostile environment can be created by a school employee, another student, or even someone visiting the school, such as a student or employee from another school.

**B. Sexual Harassment** also includes sexual violence and misconduct

In addition to sexual harassment, sexual misconduct and sexual violence are forms of discrimination, and are prohibited under this policy.

- Sexual Misconduct means prohibited sexual acts, sexual contact, sexual exhibitionism, stalking, and sexual exploitation.
- Sexual Violence refers to physical sexual acts perpetrated against a persons will or where a person is incapable of giving consent (e.g., due to the persons age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, domestic violence, and sexual coercion.

#### IV. **Definitions of prohibited conduct**

Sexual Acts means 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 Coercion means unreasonable and unwanted pressure to engage in sexual activity. Coercion differs from seduction by the repetition of the coercive behavior beyond what is reasonable and the degree of pressure applied. Coercion includes, but is not limited to, threatening, cajoling and/or pressuring an individual into sexual activity. Examples of coercion include the deliberate incapacitation of another person; conditioning an academic benefit or employment advantage on submission to

sexual activity; threatening to harm oneself or others if the other party does not engage in sexual activity; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in sexual activity. Consent is not provided if coercion is present.

**Sexual Contact** means 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 Assault** means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of investigation (including an offense that meets the definition of rape, fondling, incest, or statutory rape).

**Sexual Exploitation** means 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. Exploitation includes, but is not limited to: impairing or attempting to impair another person's ability to provide consent in order to gain 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.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress.

**Domestic Violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

**Dating Violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

## V. Definitions of key terms

### A. Consent

(i.) Means informed, freely and actively given, mutually understandable words or actions indicating willingness to participate in a mutually agreed upon activity. Activity that violates North Carolina criminal law is not considered consensual under this policy. (See N.C.G.S. [14-27.2](#), [14-27.2A](#), [14-27.25](#), [14-27.3\(a\)](#), [14-27.7A](#), [14-202.2](#), 14-27.5, 14-27.5(A)(a)(1), 14-43.13).

(ii.) 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.

### B. Consent cannot be obtained under coercion or incapacitation

(i.) Consent has not been obtained in situations where someone 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; 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 has a mental or physical disability that inhibits his or her ability to give consent.

## VI. Other Definitions

**Complainant** means an individual who alleges that he/she was the victim of a violation of this Policy.

**Coordinator** means the individual who coordinates 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 121](#), 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.

**Employee** means all UNCOSA applicants for employment, employees including Faculty, EHRA-NT, SHRA, student employees acting in the course of their employment, temporary and other employees on special assignment.

**FERPA** means the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.

1. **Title IX Deputy Coordinator** means a person in the Office of Human Resources who investigates alleged employee violations of this Policy.

**Investigator** means the individual(s) designated to conduct an investigation of alleged violations of this policy and to make factual findings regarding the complaint.

**Protected Status** means an individual's race, color, gender, age, national origin, religion, genetic information, disability, veteran's status, sexual orientation, gender identity, gender expression.

**Responsible Employee** means any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.

**Respondent** means the student or employee alleged to have violated this Policy.

**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.

**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.

**Student Code of Conduct** means the regulations concerning student behavior published in the UNCSCA College Student Handbook and UNCSCA High School Student Handbook.

**Section 504** of the Rehabilitation Act of 1973, as amended, prohibits discrimination based on disability in programs and activities receiving federal financial assistance.

**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.

**University** means the University of North Carolina School of the Arts.

## **VII. Additional Considerations:**

### **A. Retaliation**

To the extent permitted by law, during the investigation and resolution of harassment complaints, UNCOSA will take reasonable steps to protect the Complainant from both the alleged behavior and possible retaliation. UNCOSA 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 the Title IX Coordinator. Employees should also contact the Director of Human Resources or designee, and students should also contact the Dean of Student Affairs or designee.

### **B. False reports**

Any individual who files an intentionally dishonest complaint or one made in willful disregard of the truth will be subject to appropriate disciplinary action.

### **C. Effect of withdrawal from school with pending disciplinary matter**

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."

## **VIII. Discussion of privacy v. confidentiality**

### **A. Steps to take when complainant requests confidentiality**

(i.) UNCOSA will protect the privacy of Title IX complaint proceedings to the extent possible and permitted under the law. Because UNCOSA is obligated and committed to keeping a safe environment, it may investigate allegations and take actions even if the person complaining of a violation of this policy does not want to pursue the matter. UNCOSA will also inform the campus community of criminal activity where appropriate and required.

(ii.) In general, the Investigator 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: (1) The seriousness of the alleged harassment, sexual misconduct, or discrimination; (2) Whether there have been other complaints of harassment, sexual misconduct, or discrimination involving the same Respondent; and (3) The Respondent's right to receive information about the allegations, as applicable in accordance with the Family Educational Rights and Privacy Act (FERPA).

(iii.) If a Complainant is less than 18 years of age, the Title IX 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.

## **B. Delineate confidential resources**

(i.) If a person complaining of a violation would like to remain confidential, s/he can speak to a designated Confidential Resource, who will only disclose confidential information if they have written permission, if there is a continuing threat of serious harm, or there is a legal obligation to do so. Confidential Resources include the UNCSA Counseling Center and UNCSA Student Health Services.

(ii.) All responsible employees must report incidents of sexual harassment to the Title IX Coordinator, or other designee, subject to the counseling employee exemption. Responsible employees should disclose to complainants that they have a duty to report any incidents of sexual harassment to the Title IX Coordinator, but counseling resources are available that may, under certain circumstances, be able to keep complaints confidential, if the complainant so chooses.

(iii.) Certain UNCSA employees may be able to offer complainants a greater degree of confidentiality than other responsible employees, including the counselors at the Counseling Center. Note that counseling professionals are still bound by their own rules of professional conduct, state, and federal law, and may not be able to maintain confidentiality under certain circumstances.

(iv.) UNCSA mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, are not required under Title IX to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student. However, these employees may have responsibilities that would otherwise make them responsible employees for Title IX purposes.



**C. Privacy protections in records and sharing of information**

(i.) 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 residential facility), the duration of the sanction and the date the sanction was imposed. The University will keep Complainants personally identifiable information confidential to the extent possible.

**IX. Interim remedies**

(i.) UNCSA will help victims of sexual harassment, domestic violence, sexual assault, or stalking make changes in academic, transportation, and working situations, regardless of whether the victim chooses to report to campus police or local law enforcement. Any necessary interim steps will be taken promptly, and at no cost to the complainant, and the University will continue to take these steps if sexual violence is found to have occurred. These interim measures will be kept confidential, in as much as is possible to implement them. These remedies will be implemented regardless of whether the Complainant has contacted law enforcement.

(ii.) Interim measures may include, but are not limited to: counseling and emotional support; no contact directive; residence modification; academic schedule modification; academic accommodations or assistance; escort; voluntary leave of absence; interim suspension; and restrictions on campus activities.

**X. Emergency resources**

**A. 911/Law enforcement**

(i.) 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 UNCSA Campus Police.

(ii.) 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.

(iii.) 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.

(iv.) A complainant has the right to proceed with a criminal investigation and a Title IX complaint simultaneously. If a complainant files a criminal complaint with a local law enforcement agency, the University will comply with law enforcement agency requests for cooperation. Such cooperation may require the University to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. The University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

#### **B. Medical treatment**

(i.) Local options for medical care include UNCSA Student Health Services, Wake Forest Baptist Medical Center, and Novant Health 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”).

#### **C. Preservation of evidence**

(i.) 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 Novant Health Forsyth Medical Center administer collection kits and students may go directly to either hospital. UNCSA Health Services may refer students to either hospital.

(ii.) 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.

(iii.) 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.

**D. Emergency counseling**

(i.) 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 UNCSA 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.

**XI. On campus and off campus resources**

**A. Important Contact Information**

On campus emergency from cell phone: (336) 770-3362

On campus emergency from campus phone: Dial 55

Non-emergency: (336) 770-3321

Anonymous crime reporting: (336) 770-1414

OFF-CAMPUS emergency: Dial 911

Health/Counseling Services: (336) 770-3288 (located in the Upper Level of Hanes Student Commons)

College Life: (336) 770-3282

High School Life: (336) 770-3281

Associate Director Student Conduct: (336) 631-1215)

Title IX Coordinator: (336) 414-7529

**B. Community Resources**

Title IX

Novant Forsyth Medical Center Emergency Department: (336) 718-2001 Wake Forest

Baptist Medical Center Emergency Department: (336) 713-9000

Winston-Salem Police or Forsyth County Sheriff’s Department: 911

National Sexual Assault Crisis Line: 1-800-656-4673

National Online Hotline: <https://ohl.rainn.org/online/>

Protective Orders/Legal Advocacy: 7<sup>th</sup> Floor, Forsyth County Hall of Justice

Counseling and Support Groups (Family Services of Forsyth County): (336) 723-4357

## **XII. EMPLOYEE ON STUDENT, OR EMPLOYEE ON EMPLOYEE DISCRIMINATION**

### **A. Generally**

(i.) Any student or employee 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.

### **B. Reporting procedure**

(i.) Students and employees are encouraged to report prohibited harassment, including sexual misconduct or discrimination immediately or as soon as possible.

(ii.) Students are encouraged to report violations of this Policy by University employee to any one of the following: Title IX Coordinator (hereinafter Investigator), Dean of Student Affairs, Director of Residence Life, their respective Art School Dean or Academic Dean, or 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.

(iii.) 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.

(iv.) 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 UNCSA or the UNCSA community.

(v.) Employees are encouraged to report violations of this Policy by a University employee to the Human Resources (hereinafter investigator), Director of Human Resources, or 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. 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.

(vi.) 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 15 calendar days of the alleged harassing action. SHRA Employees may opt to file a grievance under UNCOSA's Grievance Procedures for SHRA Employees. Violations of this policy are treated as inappropriate personal conduct. 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.

(vii.) Complainants have 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. Protective orders and institutional sanctions may be available to victims of domestic violence, sexual assault, or stalking.

### **C. Preliminary investigation; intake**

(i.) 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.

(ii.) Prior to the meeting, the Investigator will review the written complaint for completeness and determine whether the facts alleged in the complaint, if true, could constitute a violation of this Policy. If not, the investigator may ask the complainant to clarify or amplify statements, refer the complainant to another appropriate grievance procedure, or dismiss the complaint. The Complainant may appeal a decision to dismiss the complaint to the Chancellor his/her Designee.

(iii.) During the meeting, the investigator will: make written notes of the allegations; provide the complainant a general understanding of these regulations; identify forms of

support or immediate interventions available to the complainant; and discuss any accommodations or interim measures that may be appropriate. For information on interim measures, see section IX of this Policy.

**D. Does Complainant wish to proceed?**

- (i.) Complainant does not wish to proceed
  - (a.) All efforts will be made to comply with the wishes of the Complainant-employee. 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.
  - (b.) If the Complainant-student 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-student's request to protect his/her confidentiality, the Investigator will inform the Complainant-student that the University's ability to fully respond to the complaint may be limited if the Complainant-student insists on confidentiality.
  - (c.) For more information about confidentiality, and confidential versus reporting resources, see section VIII of this Policy.
- (ii.) Complainant wishes to proceed
  - (a.) If the complainant-employee wishes to proceed with the complaint, the investigator may, 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; or proceed with either Informal Resolution or the Formal Administrative Review Process.
  - (b.) If the complainant-student wishes to proceed with the complaint, the Investigator shall: Notify the Dean of Student Affairs if not already on notice) of the complaint, and 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. The Investigator shall proceed with either Informal Resolution or the Formal Administrative Review Process.

**E. Informal Resolution**

(i.) A student or employee who believes 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. The Investigator and the Coordinator or their designees will assist the Complainant and the Respondent in participating in an informal resolution process which may include individual resolution, mediation or other remedial measures.

(ii.) Sexual violence cannot be mediated.

(iii.) 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 provisions above concerning allegations involving a minor student, or sexual violence.

(iv.) The Complainant or Respondent may, at any time during the Informal Resolution Process, elect to terminate the Informal Resolution Process and proceed with a formal complaint.

(v.) Individual Resolution

(a.) The Complainant may attempt to resolve the matter directly with the employee Respondent and report to the Investigator within a mutually agreed time.

(vi.) Mediation

(a.) The Complainant may request mediation to attempt to resolve the complaint. 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, or by the Investigator.

(vii.) The role of the mediator is to facilitate discussion and to suggest alternative resolutions. The mediator does not investigate the complaint or assign blame. The mediator will report the outcome of the process to the Investigator.

(viii.) The Complainant may, at any time during the Informal Resolution Process, elect to terminate the Informal Resolution Process and proceed with a formal complaint. If the student-complainant elects to forego a formal complaint against the Respondent, the Investigator will convey the circumstances to the Respondent's supervisor, UNCSA General Counsel, and the Title IX Coordinator, who will decide whether to pursue further investigation or action against the Respondent. If the employee-complainant elects to forego a formal complaint against the Respondent, the Investigator will convey the circumstances to the Respondent's supervisor, UNCSA General Counsel, and the

Office of Human Resources, who will decide whether to pursue further investigation or action against the Respondent.

(ix.) If a complainant elects to proceed with a formal complaint, whether or not informal efforts have been made, the student must follow the procedures described herein. A formal complaint under this procedure may be made only by means of filing a written, signed statement with the Investigator.

(x.) 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 the time period proscribed in the SHRA Grievance Policy.

#### **F. Formal Administrative Review**

(i.) Generally

(a.) The Investigator will have complete responsibility for conducting the investigation. This investigation and summary constitute the Administrative Review Process.

(b.) The purpose of Administrative Review, is to gather and assess the facts relevant to the complaint to determine whether the Respondent has violated this policy, and to equitably address the concerns in order to resolve the complaint.

(c.) The scope of the investigation will be determined by the Investigator in his/her discretion and according to the complaint and the facts. The investigator will include the information in the summary report to the (1) Human Resource Director if this involves an employee or (2) submit the information to the Associate Director of Student Conduct if it is a student

(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. 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.) In most cases, the Administrative Review Process will conclude within 60 calendar days. If more time is needed, the Investigator will notify both the



Complainant and the Respondent as to the length of extra time needed and reasons for the delay. The University will make periodic communications with the Complainant and the Respondent, in order to keep them informed of the progression of the Administrative Review Process.

(ii.) Investigation

(a.) The method of investigation shall be within the discretion of the Investigator. However, the following requirements shall be observed.

(b.) The Complainant 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. After receiving the initial evidence from the Complainant, the Investigator 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 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.

(c.) Both the Complainant and the 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. Parties are not restricted from discussing and sharing information relating to their complaint with others that may support them or assist them in preparing their case.

(d.) Evidence of the Complainant's past relationships with anyone other than the accused is presumptively inadmissible.

(e.) 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. All evidence collected during the investigation shall be preserved.

**G. Findings Report and Final Report**

(i.) After receiving evidence as described above, the Investigator will prepare a written Draft Summary Report, in keeping with guidelines developed by the Coordinator, or in cases of alleged employee on employee discrimination, the guidelines developed by the Director of Human Resources, regarding content and format. The Investigator will deliver the Draft Summary Report to the Coordinator, or in cases of alleged employee on employee discrimination, to the Director of Human Resources. The Coordinator, or 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 Summary Report as written.

(ii.) After considering any feedback provided by the Coordinator, or the Director of Human Resources, the Investigator will submit the final summary report to the Human Resource Director or to the Associate Director of Student Conduct to reach a final decision. The Investigator's summary report shall be based solely upon the written complaint and evidence received during the investigation. If the decision is that the Respondent has violated the policy, the Human Resources Director or the Associate Director of Student Conduct will obtain the confidential records of prior incidents involving the Respondent, if any, and will consider such records in any recommendation to impose disciplinary penalties on the person found to have violated the policy.

(iii.) If the Final Report concludes that the employee Respondent has not violated the Policy, the Human Resources Director will so notify the student and the employee Respondent via a written Outcome Letter. If the Final Report concludes that the employee Respondent has violated the Policy, the Human Resources Director or the Associate Director of Student Conduct should also indicate what relief if any the complainant should receive and may include recommendations for disciplinary sanctions.

(iv.) The Human Resources Director or the Associate Director of Student Conduct 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 if the complainant is a student, or the Director of Human Resources if the complainant is an employee, the appropriate dean or department head, and to UNCOSA's General Counsel. Any recommendation for dismissal, suspension, or diminishment in rank shall proceed in accordance with applicable University policies.

(v.) The Respondent's immediate supervisor will prepare an Outcome Letter to the Respondent's which includes: a summary of the relevant facts found as a result of the

investigation; an explanation of the basis for the decision that the employee Respondent violated this Policy; a listing of all disciplinary sanctions or other remedial measures instituted because of the violation; and any other action that the immediate supervisor deems to be appropriate.

(vi.) The Coordinator will give the Complainant an Outcome Letter summarizing the investigator's findings of fact and the conclusion that the Respondent violated this policy. The Complainant will receive no information about disciplinary sanctions or remedial measures unless those sanctions or measures directly impact the student.

(vii.) The Final Report, with the evidence collected during the investigation, will be filed in Human Resources.

(viii.) After the Human Resource Director or the Associate Director of Student Conduct has completed the Final Report, the Complainant or the Respondent may appeal the disposition of the investigation as follows:

(a.) Employee Respondents may appeal via the existing University policies covering grievance procedures prescribed for individuals in that category of employment (SHRA, EHRA-NT, Faculty). All timelines and processes in the applicable policy should be followed in order to preserve all employee rights.

(b.) 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.

### **XIII. STUDENT ON STUDENT, OR STUDENT ON EMPLOYEE DISCRIMINATION**

#### **A. Generally**

(i.) This section of the Policy primarily addresses alleged student on student discrimination. Instances of alleged student on employee harassment should also follow the procedures in this section.

(ii.) 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. 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

harassment, sexual violence, and sexual misconduct, are forms of sex discrimination prohibited by Title IX.

(iii.) 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.

**B. Additional definitions pertinent to this section**

**Final Administrative Decision** means the Dean of Students Affairs formal decision of responsibility and outcome(s) based on the findings and recommendations from the Case Resolution Board or resulting from the Respondent's plea of "responsible." The decision is effective immediately upon issuance and remains in effect pending the outcome of subsequent appeal process, if any.

**Case Resolution Coordinator** means the individual who convenes the Conduct Case Resolution Board. They are responsible for scheduling and notification of the parties regarding any Case Resolution Meeting. The UNCSA Associate Director of Student Conduct serves in this capacity.

**Case Resolution Board** means the body that hears testimony, reviews evidence, and issues a recommendation of responsibility and outcome(s) when a Respondent contests a charge. The Case Resolution Board is composed of three (3) voting members empaneled by the Associate Director of Student Conduct from a pool of trained individuals (the "Case Resolution Board Pool"). The pool from which the above board members are selected will include representatives from Student Affairs staff; High School and the Division of Liberal Arts faculty and staff; and faculty members from each of the Arts schools (Dance, Drama, Film, Music, Design and Production).

**Major Case Resolution Meeting** if a student is cited with a Major Violation, they may request a conduct meeting before the Case Resolution Board. A finding of responsible in a Major Case Resolution Meeting may result in outcomes ranging from probation to expulsion. The Major Case Resolution Meeting occurs before the Case Resolution Board, which has the authority to determine responsibility and make a recommendation for outcomes.

**Investigator** means the individual(s) designated to conduct an investigation of alleged violations of this policy and to make factual findings regarding the complaint.

**Associate Director for Student Conduct** means the individual handling administrative matters to ensure effective and efficient functioning of the major infraction hearing process.

**C. Reporting Procedure/Disclosures**

(i.) Students are encouraged to report violations of this Policy by another student as soon as possible, to any of the following: [Title IX Coordinator](#) Associate Director of Student Conduct; Vice Provost and Dean of Student Affairs; Director of Residence Life; their respective Art School Dean or Academic Dean; Campus Police; General Counsel; or Responsible Employees. When one of the above administrators receives a student report of a violation of the Policy, the administrator should notify the Title IX Coordinator in the Human Resources Department as soon as possible.

(ii.) Any other University employee who receives notice of a student's allegation of violations of the Policy must notify the Title IX Coordinator 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 to any individual listed in C (i) above. Not doing so may result in serious disciplinary consequences and will be considered in breach of supervisory responsibility.

(iii.) In cases involving minor students, an investigation into allegations of a violation of the Policy is mandatory. In cases involving adult students, an investigation will occur if the complainant consents. Additionally, the University will conduct an investigation without the reporting student's consent if necessary to protect UNCISA or the UNCISA community.

(iv.) Complainants have 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. Protective orders and interim remedies (e.g. no contact orders) may be available to victims of domestic violence, sexual assault, or stalking.

**D. Preliminary Investigation; intake**

(i.) Upon receipt of notice of any allegation of violations of the [Policy 121](#) by a University student, the Title IX Coordinator will promptly schedule an individual meeting with the Complainant. The Title IX Coordinator will oversee all investigations. This investigation shall normally be completed within 30 calendar days after the initiation of the allegation. The University will periodically communicate with the Complainant

and Respondent about the progression of the progress of the Title IX process and will communicate the allegation to UNCSA Campus Police for the Clery Report.

(ii.) The Complainant must file a written complaint with the Title IX Coordinator, who will determine whether the facts alleged in the complaint, if true, could constitute a violation of the Policy. If the facts alleged do not constitute a violation of the Policy, the Title IX Coordinator may ask the student Complainant to clarify or amplify the statements, may refer the Complainant to another appropriate grievance process, or may dismiss the complaint. This determination will be communicated to the complainant in writing. The Complainant may appeal a decision to dismiss the complaint to the Chancellor or his/her Designee.

(iii.) During the meeting, the Title IX Coordinator will: make written notes of the allegation; provide the Complainant with a general understanding of these policies and procedures; identify forms of support or immediate intervention available to the Complainant, including the 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; and discuss any accommodations or interim measures that may be appropriate. For a more detailed discussion of interim remedies, see section IX of these Procedures.

(v.) All disciplinary correspondence will be sent to the student's UNCSA email account and may be sent to other locations if appropriate.

**E. Does Complainant wish to proceed?**

- (i.) Complainant wishes to proceed; the Investigator will conduct the investigation
- (a.) If the Complainant wishes to proceed, or the University decides to proceed regardless of the Complainant's wishes, the Investigator will oversee an investigation
- (b.) The scope of the investigation will be determined by the Investigator in his/her discretion and according to the complaint and the facts.
- (c.) The Investigator may conduct the investigation directly, or may enlist one or more others to assist him/her with the investigation and to prepare a summary report to the Associate Director of Student Conduct.
- (d.) 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 Associate Director of Student Conduct 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.

(e.) After receiving the initial evidence from the Complainant, the Investigator 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 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 that will be of assistance.

(f.) Both the Complainant and the 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 Investigator's ability to conduct the investigation. Neither the Complainant nor the Respondent is permitted to have an attorney present during these proceedings.

(g.) Upon conclusion of the investigation, the Title IX Investigator will dismiss the allegations, recommend informal resolution, or issue a written finding to Student Conduct for resolution. Further, the Title IX Investigator will forward the investigative report to the Respondent and Complainant.

**(ii.) Complainant does not wish to proceed**

(a.) If the Complainant does not wish to proceed with the complaint, the University may still be required by law (for example, if the complainant is a minor) 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 Title IX 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.

(b.) For more information about confidentiality, and confidential versus reporting resources, please see section VIII of this Policy.

**F. Dismissal of Allegations**

(i.) The Title IX Coordinator will dismiss the allegations if 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.

**G. Informal Resolution**

(i.) The Title IX Coordinator may recommend informal resolution. In the event that the Title IX Coordinator recommends Informal Resolution, implementation of interim or protective measures may still be appropriate.

(ii.) The Title IX Coordinator or their designees will assist the Complainant and the Respondent in participating in an informal resolution process which may include individual resolution, meditation or other remedial measures.

(iii.) [Sexual violence](#) cannot be mediated.

(iv.) 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 provisions above concerning allegations involving a minor student, or sexual violence.

(v.) The Complainant or Respondent may, at any time during the Informal Resolution Process, elect to terminate the Informal Resolution Process and proceed with a formal complaint.

**(vi.) Individual Resolution**

(a.) The Complainant may attempt to resolve the matter directly with the Respondent and report to the Investigator within a mutually agreed time.

**(vii.) Mediation**

(a.) [The Complainant may request mediation](#) to attempt to resolve the complaint. If such a request is made, the Investigator shall determine whether the Respondent is willing to engage in mediation, and, if so, a mediator shall be selected by mutual agreement of the parties, or by the Investigator.

(b.) The role of the mediator is to facilitate discussion and to suggest alternative resolutions. The mediator does not investigate the complaint or assign blame. The mediator will report the outcome of the process to the Investigator.



**H. FORMAL Major Resolution**

<https://www.uncsa.edu/about/office-of-the-provost/handbooks/high-school-handbook/appendix-c-high-school.aspx>

<https://www.uncsa.edu/about/office-of-the-provost/handbooks/college-handbook/appendix-c.aspx>