



2016-2017 FACULTY SENATE

The sixth regular meeting of the 2016/2017 Faculty Senate will be held on **Tuesday, February 21, 2017**, at 2:10 p.m. in the Mendenhall Great Room.

AGENDA

[Link to mediasite recording](#)

I. Call to Order

II. Approval of Minutes

[December 6, 2016](#) and [January 24, 2017](#)

III. Special Order of the Day

A. Roll Call

B. [Announcements](#)

C. Ron Mitchelson, Provost and Vice Chancellor for Academic Affairs

D. Jon Rezek, Executive Director of Global Affairs

E. John Stiller, Chair of the Faculty

F. Mike Felts, Faculty Assembly Delegate
Report on [February 17, 2017](#) UNC Faculty Assembly Meeting

G. Election of Five Members to the Faculty Officers Nominating Committee
As prescribed in *ECU Faculty Manual*, [Part II, Section II](#) (attachment 1).

H. Question Period

IV. Unfinished Business

V. Report of Graduate Council

Graduate Council, Denise Donica

Formal faculty advice on curriculum and academic matters acted on and recorded in the meeting minutes of [January 23, 2017](#), Graduate Council minutes, including curriculum action items (GC 15-35) within the Graduate Curriculum Committee meeting minutes from [December 7, 2016](#), included packages submitted by the Department of Computer Science, and the College of Nursing; programmatic actions within the Graduate Curriculum Committee meeting minutes of [December 7, 2016](#) were forwarded to the Educational Policies and Planning Committee (EPPC) and included revision of an existing degree: MS in Software Engineering, discontinuation of existing concentrations: Software Design and Development, Software Project Management and Quality Assurance, Software Testing in the Department of Computer Science within the College of

Engineering and Technology; proposal of a new Post-Master's Certificate: Psychiatric-Mental Health Nurse Practitioner, proposal of a New Concentration: MSN: Psychiatric-Mental Health Nurse Practitioner.

VI. Report of Committees

A. Writing Across the Curriculum Committee, Jen Scott Mobley

Curriculum and academic matters contained in the meeting minutes of [January 23, 2017](#) including changing the prerequisites for BIOL 4200 to a writing intensive (WI) course designation and removing BIOL 2251 as a prerequisite because in the new Biology curriculum BIOL 2251 is no longer a required course.

B. Undergraduate Curriculum Committee, Jean Luc Scemama

Curriculum and academic matters acted on and recorded in the [January 12, 2017](#) meeting minutes including curricular actions within Interdisciplinary Studies in the College of Arts and Sciences, Department of English and School of Theatre and Dance and curriculum and academic matters acted on and recorded in the [January 26, 2017](#) meeting minutes including curricular actions within Department of Political Science, Department of Foreign Languages and Literatures, Department of Biology and College of Education.

C. Educational Policies and Planning Committee, Don Chaney

1. Curriculum and academic matters acted on and recorded in the [February 10, 2017](#) meeting minutes including a proposed movement of BS University Studies undergraduate degree to the Harriot College of Arts and Sciences; proposed revision of MS in Software Engineering (discontinuation of existing concentrations (Software design and development; Software project management and quality assurance; Software testing) within the College of Engineering and Technology; proposed new post-master's certificate entitled Psychiatric-Mental Health Nurse Practitioner and new concentration entitled MSN: Psychiatric-Mental Health Nurse Practitioner within the College of Nursing; proposed new undergraduate concentrations in the BS in Biochemistry: Biology, Chemistry and reducing total degree credit hours from 126 to 120 within the Department of Biology; Program Review Response for Gerontology and Substance Abuse Certificates within the School of Social Work; and Program Review Response for Department of Addictions and Rehabilitation Studies within the Department of Addictions and Rehabilitation Studies in the College of Allied Health Science.
2. Proposed revisions to the *ECU Faculty Manual*, Part VI, Section VII Curriculum Procedures and Academic Program Development (attachment 2).

D. Faculty Welfare Committee, Chris Duffrin *revised*

Formal faculty advice on EHRA Recruitment Compliance Review Process Interim Regulation (attachment 3).

E. Faculty Governance Committee, Jay Morris

Formal faculty advice on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence Regulation (attachment 4).

VII. New Business

Faculty Senate Agenda
February 21, 2017
Attachment 1.

Election of Five Members to the Faculty Officers Nominating Committee

ECU Faculty Manual, [Part II, Section II](#) states:

“At the second regular meeting of the spring semester the elected members of the Faculty Senate shall nominate and elect a nominating committee to consist of five members. **The nominating committee shall be elected from the ranks of elected members of the Faculty Senate by a majority of those present and voting.** Voting for members of the nominating committee shall be by written, secret ballot. The nominating committee elected by the Faculty Senate shall submit to the Secretary of the Faculty a slate of candidates for each office of the Faculty Senate at an organizational meeting to be held on a Tuesday following the last regular meeting of the spring semester but before the beginning of the examination period.”

Faculty Senate Agenda
February 21, 2017
Attachment 2.

EDUCATIONAL POLICIES AND PLANNING COMMITTEE REPORT

Proposed revisions to the *ECU Faculty Manual*, Part VI. Teaching and Curriculum Regulations, Procedures and Academic Program Development, Section VII. Academic Program and Curriculum Development

Revisions are noted in **bold** print and deletions in ~~strikethrough~~.

Program and curriculum development are faculty responsibilities. **These** program and curriculum changes will **now** be initiated, prepared, and presented for review **through the Curriculog curriculum management system. All proposals follow an approval process inclusive of** to all relevant ECU campus bodies **and** voting faculty as defined in *ECU Faculty Manual*, Part VI ~~IV~~, Section VII ~~(III)~~. **Three levels of approval have been identified and actions grouped according to the specific delegated authority of final approvals. Proposals governed by the policies and procedures of UNC General Administration (GA) and/or Southern Association of Colleges and Schools Commission on Colleges (SACS) will follow additional approval steps and will therefore take longer to proceed through the entire approval process. Instructions and training on specific procedures and documents for program and curriculum development proposals are available on the Curriculog Website. Consultation with the unit curriculum liaison, personnel in the Office of the Registrar, and personnel in Institutional Planning and Accreditation (IPA) is recommended at the onset of curriculum and program development.**

~~Development of new academic degree programs and certificates is governed by the policies and procedures of the General Administration (GA). Consultation with the ECU Office of Academic Program Planning and Development, including resources from institutional research, is recommended before preparing program development requests. Instructions on specific procedures and documents for program and curriculum development proposals are available on the Office of Academic Program Planning and Development's Web site.~~

The Academic Program Development Collaborative Team (**APDCT**), an advisory body to the Academic Council, collaborates with units to strengthen program proposals and informs the Educational Policies and Planning Committee (**EPPC**) of its recommendations to the Academic Council and to the dean of the Graduate School concerning graduate programs under consideration. The Offices of Continuing Studies and Distance Education and/or IPA process requests to deliver new and existing academic programs through distance education. The chancellor has the final campus authority on academic program decisions.

In cases of financial exigency or the initiation of a discontinuation, curtailment, or elimination of a teaching, research, or public service program, the provisions of the *ECU Faculty Manual* will apply.

The Chancellor or his or her designee in consultation with the Chair of the Faculty may establish deadlines of not less than two weeks by which each person and/or committee listed must report its concurrence (approval) or non-concurrence with the proposed action. Failure to report by the established deadline shall be considered an abstention and the proposed action shall progress to the next level for consideration.

A. Definitions

1. Degree Programs

A degree program is a program of study in a discipline specialty that leads to a degree in that distinct specialty area at a specified level of instruction. All degree programs are categorized individually in the University's academic program inventory (**API**) at the ~~twelve~~ **six**-digit CIP code level, **with a unique GA identifying code, and teacher licensure area, if applicable**. As a rule, a degree program requires coursework in the discipline specialty of at least 27 semester hours at the undergraduate level and 21 semester hours at the doctoral level. A master's-level program requires that at least one-half of the total hours be in the program area. Programs with fewer hours are designated a concentration within an existing degree program. Degree programs require ~~the~~ **final** approval of ~~the~~ by GA and the **UNC** Board of Governors (BOG). Minors and concentrations receive final approval at the campus level.

2. Certificates

A certificate program provides an organized program of study that leads to the awarding of a certificate rather than a degree. Certificate programs are offered at the pre-baccalaureate, post-baccalaureate, and post-master's, **and post-doctoral levels**. UNC-GA has indicated that post-baccalaureate and post-master's certificates must require a specified number of hours (18 s.h. for post-baccalaureate and 24 s.h. for post-master's) to be reported to the Integrated Postsecondary Education Data System (IPEDS). ~~Program planners should be aware that not meeting these criteria may impact consideration of financial aid eligibility.~~ Once a certificate is approved, ECU will submit it to the Department of Education to determine if the program is eligible for participation in ~~the~~ Title IV (financial aid) programs.

3. Teacher Licensure Areas (TLAs)

These are specific course clusters that meet licensure requirements of the State Board of Education but do not lead to the conferral of a particular degree or a certificate. These may be at **either** ~~the~~ entry level or advanced level of teacher licensure. When an institution receives authorization from the State Board of Education to offer a TLA, ~~the senior vice president for academic affairs of UNC-~~ GA must be notified. A current inventory of teacher licensure programs approved by the State Board of Education is available ~~from~~ **on** the North Carolina Department of Public Instruction website.

4. Curriculum Development

Curriculum development includes developing courses and requirements for new academic programs, and developing and revising courses and requirements for existing programs.

5. Program Development

Program development includes developing new academic degree programs, minors, certificates, and new concentrations within existing degree programs, as well as requesting degree title and/or CIP code changes, and moving or discontinuing programs.

B. Levels of Delegated Authority for Curriculum and Program Approval Process

Level I Curricular and Program Changes: Delegated authority to the Undergraduate and Graduate Curriculum Committees. Level I are curricular and program changes that require campus approval by the department, college/school, and university Undergraduate Curriculum or Graduate Curriculum Committees. The Graduate Council delegates authority for these actions to the Graduate Curriculum Committee.

The following are Level I Curricular Changes:

1. Revising a course: title, description, objectives, prerequisite(s), prefix, repeatability, credit hours, and content
2. Renumbering an existing course at the same or different level
3. Revising the prefix for an entire course list or program
4. Banking or deleting courses
5. Removing a 5000-level course from the undergraduate catalog
6. Proposing new or unbanking course (undergraduate courses require Faculty Senate review)

The following are Level I Program Changes:

1. Revising degrees, concentrations, and minors: deleting courses; revising core requirements, electives, admission standards, and descriptive text
2. Revising titles of existing concentrations and minors
3. Revising certificate course selections (excludes total hours), admission standards, and descriptive text
4. Discontinuing a minor or concentration
5. Adding or removing thesis/non-thesis options of degree program

Program changes excluded from Level I are degree and certificate title and/or CIP code changes; revising total hours of degree programs; change in delivery mode; and moving degree and certificate programs to a new academic home as these actions require EPPC review and some are reported to GA as indicated below.

Level II Curricular and Program Changes: Delegated authority to EPPC and Academic Council. Level II changes are substantial curricular and program changes that require approval at the department, college or school and university levels including Undergraduate Curriculum/Graduate Curriculum Committee and EPPC review prior to Senate review and approval by Academic Council. They require no approval by the Chancellor or by GA.

1. Moving a degree or certificate program
2. Proposing an integrated degree program

3. Proposing a new concentration in an existing degree program
4. Proposing a new minor
5. Moving a minor or concentration to a new academic home

Level III Program Changes: Require Chancellor Approval

Level III changes are also substantial program changes or proposals that require approval at the department, college/school and university levels, chancellor approval, and GA and/or SACS approvals or notifications.

EPPC review and GA and SACS approvals or notifications

1. Discontinuing an existing degree or certificate program
2. Proposing a new certificate program
3. Proposing a new degree program (two-phase process: planning and establishing)
4. Revising an existing degree or certificate title
5. Consolidating two or more existing degrees
6. Proposing a new delivery mode for an existing degree
7. Revising degree or certificate credit hours
8. Changing a degree designation (e.g. MA to MS)

GA and SACS approvals or notifications only (no EPPC review required)

1. Revising a CIP code for an existing degree or certificate program
2. Discontinuing an existing teacher licensure area

~~Curriculum development includes developing courses and requirements for new academic programs, and developing and revising courses and requirements for existing programs. The following is the order for seeking campus approval for undergraduate curriculum changes (1000-4000-level):~~

- ~~• Curriculum committee of department/school in which the course(s) is/will be housed;~~
- ~~• Voting faculty of department/school in which the course(s) is/will be housed;~~
- ~~• Foundations Curriculum and Instructional Effectiveness Committee (if requesting Liberal Arts Foundations Curriculum credit or Diversity credit);~~
- ~~• Writing Across the Curriculum Committee (if requesting Writing Intensive credit);~~
- ~~• University Service Learning Committee (if requesting Service Learning credit);~~
- ~~• Communicate with the appropriate chairperson(s), director(s), or dean(s) of the units and programs that may be directly or indirectly affected by the curriculum;~~
- ~~• Chairperson/director of department/school in which the course(s) is/will be housed;~~
- ~~• Curriculum committee of the college in which the course(s) is/will be housed;~~
- ~~• Council on Teacher Education (for Teacher Licensure Areas);~~
- ~~• Dean of the college in which the course(s) is/will be housed;~~
- ~~• University Curriculum Committee;~~
- ~~• Faculty Senate;~~
- ~~• Chancellor~~

~~The following is the order for seeking campus approval for graduate curriculum changes (5000-level and above):~~

- ~~• Curriculum committee of department/school in which the course(s) is/will be housed;~~
- ~~• Voting graduate faculty of department/school in which the course(s) is/will be housed;~~
- ~~• Communicate with the appropriate chairperson(s), director(s), or dean(s) of the units and programs that may be directly or indirectly affected by the curriculum;~~
- ~~• Chairperson/director of department/school in which the course(s) is/will be housed;~~

- ~~Curriculum committee of the college in which course(s) is/will be housed and TLA proposals to Council on Teacher Education;~~
- ~~Dean of the college in which the course(s) is/will be housed;~~
- ~~Graduate Curriculum Committee;~~
- ~~Graduate Council;~~
- ~~Chancellor~~

C. Program Development Approval Process

Program development includes creation of new academic degree programs, minors, certificates, and new concentrations within existing degree programs, as well as requesting degree title and/or CIP code changes, and moving or discontinuing programs.

1. New Degree Programs

Proposals for new academic degrees must include a list of all UNC and private in-state institutions that offer the same or a similar degree. Program planners are expected to contact those institutions regarding their experience with program productivity (applicants, majors, job market, placement, etc.). Further, program planners are expected to identify opportunities for collaboration with institutions offering related degrees and discuss what steps have or will be taken to actively pursue those opportunities where appropriate and advantageous. To facilitate this portion of the planning process, the UNC-GA Division of Academic Affairs provides a link to the UNC Academic Program Inventory and a link to program inventories for other in-state institutions. In addition, proposals must include the Classification of Instructional Programs code under which the proposed program is to be classified. Faculty should allow ample time for review of proposals at all levels.

The approval process to plan or establish new undergraduate or graduate degree programs involves two distinct phases:

Phase I: Planning (**Request to Plan**)

Phase II: Development (**Request to Establish; curriculum development**)

Program proposals on the ECU Academic Program Plan **will be** ~~have first been~~ presented in a campus-wide forums, with opportunities ~~y-~~for questions and written **feedback** ~~recommendations~~ concerning inclusion. ~~This means all~~ **All new Requests to Plan undergo a rigorous, thorough campus-wide vetting process. New degree programs follow Level III processes/actions. The Request to Plan, which contains questions of full campus concern, will undergo the full Level III campus review. Once GA approves the plan, ECU has four months to submit the Request to Establish. The Request to Establish updates the Request to Plan, as well as curriculum and other materials that are the purview of unit faculty for administering the program. The Request to Establish will be approved through the appropriate academic units, the APD Collaborative Team, (an advisory body comprised of Undergraduate/Graduate Curriculum Committee chairs; EPPC chair; dean of the Graduate School; representatives from the Office of Continuing Studies and Distance Education, Institutional Planning and Accreditation, and Division of Health Sciences; and the Chair of the Faculty); the EPPC; the Chancellor; and GA. Curriculum development, as part of new degree program development, will follow Level II vetting processes.**

~~In Phase I, the appropriate planning documents are submitted to the following academic bodies and officers in the following order for approval:~~

- ~~Curriculum committee of department/school in which the program is/will be housed;~~
- ~~Voting faculty of department/school in which the program is/will be housed;~~
- ~~Curriculum committee of the college in which program is/will be housed; TLA proposals to Council for Educator Preparation; on Teacher Education;~~

- ~~Dean of the college in which the program is/will be housed;~~
- ~~Appropriate Vice Chancellor (for information purposes only);~~
- ~~Graduate Council for master's or doctoral programs;~~
- ~~Educational Policies and Planning Committee;~~
- ~~Faculty Senate and Academic Council;~~
- ~~Chancellor~~

~~In Phase II, a request for authorization to establish (RAE) a bachelor's, master's, or doctoral program must be approved and submitted to UNC-GA within four months after the RAP is approved and UNC-GA issues an invitation to submit the RAE. The RAE package is developed in consultation with the Academic Program Development Collaborative Team, the Office of Academic Program Planning and Development, and resources from institutional research.~~

~~Curriculum development (in conjunction with new academic program development) is completed and is submitted with the RAE package to the following academic bodies and officers in the following order for approval:~~

- ~~Curriculum committee of department/school in which the program is/will be housed;~~
- ~~Voting faculty of department/school in which the program is/will be housed;~~
- ~~For undergraduate curriculum only (with no RAE package required):~~
 - ~~Foundations Curriculum and Instructional Effectiveness Committee (if requesting Liberal Arts Foundations Curriculum credit or Diversity credit);~~
 - ~~Writing Across the Curriculum Committee (if requesting Writing intensive credit);~~
 - ~~University Service Learning Committee (if requesting Service-Learning credit);~~
- ~~Communicate with the appropriate chairperson(s), director(s), or dean(s) of the units and programs that may be directly or indirectly affected by the curriculum;~~
- ~~Curriculum committee of the college in which program is/will be housed; TLA proposals to Council on Teaching Education;~~
- ~~Dean of the college in which the program is/will be housed;~~
- ~~Appropriate Vice Chancellor;~~
- ~~External review (master's and doctoral programs only);~~
- ~~Graduate or University Curriculum Committee as appropriate for degree level;~~
- ~~Graduate Council (master's or doctoral programs only);~~
- ~~Educational Policies and Planning Committee;~~
- ~~Faculty Senate and Academic Council;~~
- ~~Chancellor~~

~~2. New Minors, Certificates, Concentrations; Degree Title Changes; Teacher Licensure Areas; and Discontinuing Degree Programs~~

~~The following is the order for seeking campus approval for undergraduate or graduate minors, certificates, concentrations, degree title changes, teacher licensure areas, and discontinuing a degree program. (Discontinuing minors, certificates, concentrations, and teacher licensure areas are considered curricular actions.) The Chancellor or his or her designee in consultation with the Chair of the Faculty may establish deadlines of not less than two weeks by which each person and/or committee listed must report its concurrence (approval) or non-concurrence with the proposed action. Failure to report by the established deadline shall be considered an abstention and the proposed action shall progress to the next level for consideration.~~

- ~~Curriculum committee of department/school in which the program is/will be housed;~~
- ~~Voting faculty of department/school in which the program is/will be housed;~~
- ~~Curriculum committee of the college in which the program is/will be housed; TLA proposals to Council on Teacher Education;~~

- ~~Dean of the college in which the program is/will be housed;~~
- ~~Appropriate Vice Chancellor (for information purposes only)~~
- ~~University Curriculum Committee or Graduate Curriculum Committee as appropriate for degree level;~~
- ~~Graduate Council for graduate programs;~~
- ~~Educational Policies and Planning Committee;~~
- ~~Faculty Senate and Academic Council;~~
- ~~Chancellor (Once new teacher licensure areas are approved by the North Carolina State Board of Education, they must be submitted to UNC-GA.~~

3. Moving Degree Programs

~~The following is the order for seeking campus approval for moving a program.~~

- ~~Curriculum committee of department/school in which the program is currently and will be housed;~~
- ~~Voting faculty of department/school in which the program is currently and will be housed;~~
- ~~Curriculum committee of the college in which program is currently and will be housed; TLA proposals to Council on Teacher Education;~~
- ~~Dean of the college in which the program is currently and will be housed;~~
- ~~Appropriate Vice Chancellor (for information purposes only)~~
- ~~University Curriculum Committee or Graduate Curriculum Committee as appropriate for degree level;~~
- ~~Graduate Council for graduate programs;~~
- ~~Educational Policies and Planning Committee;~~
- ~~Faculty Senate and Academic Council;~~
- ~~Chancellor~~

2.4. Process Completion

The proposing academic unit, **Institutional Planning and Accreditation, and the Office of the Registrar will collaborate to ensure that all approved actions are communicated to the campus community, as well as to GA and SACS as required.** ~~in collaboration with the Office of Academic Program Planning and Development, prepares the final version of undergraduate and graduate program requests for the chancellor's consideration. Once the chancellor has made an affirmative decision, the Office of Academic Program Planning and Development submits the new program request and chancellor's communiqué to UNC-GA.~~

D. Academic Program Review

Every academic program is required to be reviewed as part of a seven year unit program evaluation. The unit Academic Program Review will be conducted according to the [Procedures for Unit Academic Program Review 2015 Pilot Academic Program Review Guidelines](#). Changes to these guidelines need to be approved by the Educational Policies and Planning Committee and the Faculty Senate. The unit Academic Program Review shall be used in the development of the unit's operational and strategic planning.

(FS Resolution #12-50, March 2012)

(FS Resolution #14-62, May 2014)

(FS Resolution #15-63, May 2015)

Revised

FACULTY WELFARE COMMITTEE REPORT
Formal Faculty Advice on EHRA Recruitment Compliance
Review Process Interim Regulation

No formal changes are being recommended to this interim regulation.

Policy	REG06.05.01
Title	EHRA Recruitment Compliance Review Process Regulation
Category	Human Resources
Sub-category	Appointment, Recruitment, Hiring
Authority	Chancellor
History	Revised July 26, 2016 (Previously revised March 2014, 10/15/2004, 10/15/07, 3/21/2007, 3/1/2008)
Contact	Associate Provost for Equity and Diversity, Office for Equity and Diversity, Phone: 252-328-6804 Director for Employment and Clinical Support Services, Department of Human Resources, Phone: 252-328-9897 Director of Immigration Services, Phone 737-4769 [for U.S. Department of Labor (DOL) recruitment requirements guidance]
Related Policies	ECU Equal Employment Opportunity Plan Notice of Nondiscrimination and Affirmative Action Policy EHRA Recruitment Compliance Review Process Standard Operating Practice ECU Faculty Criminal Background Check Policy and Procedures ECU Criminal Background Checks for SPA/CSS and SAAO/Non-faculty EPA Employees UNC Policy Manual, Employment of Related Persons (Anti-Nepotism) Policy UNC Policy Manual, Regulation on Recruitment of Employees from Other Campuses within the University of North Carolina Code of the University of North Carolina, Section 103

Additional References	<p>Executive Order 11246, as amended</p> <p>Title 41: Public Contracts and Property Management, CFR Part 60-1 Obligations of Contractors and Subcontractors</p> <p>Title 41 CFR Part 60-2 Affirmative Action Programs</p> <p>Title 41 CFR Part 60-741 Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors Regarding Individuals with Disabilities Title 41 CFR Part 60-300 Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors Regarding Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans</p> <p>Faculty Spousal and Domestic Partner Hire SOP</p> <p>Recruitment resources and strategies for affirmative recruitment</p> <p>ECU Faculty Manual, Part IX, Section IV UNC Records Retention General Schedule</p>
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1. Introduction

Described in this Regulation are recruitment, outreach and record keeping requirements necessary to fill any position classified as exempt from the State Human Resources Act (EHRA, formerly referred to as EPA) including faculty and non-faculty EHRA positions (and excluding Clinical Support Services positions). The purpose of this Regulation is to ensure compliance with Equal Employment Opportunity/Affirmative Action laws and policies and to provide consistency in the recruitment and selection process across the University.

2. Covered Positions

This Regulation applies to hiring for any EHRA position, including positions filled from within or outside the University (i.e., both internal searches and external searches), regardless of whether it is full-time or part-time, permanent or short-term. Such positions include EHRA senior academic and administrative officer (SAAO) positions (i.e., Vice Chancellors, Assistant Vice Chancellors, Deans, Assistant Deans, etc.); EHRA non-faculty instructional, research, and public service positions (i.e., Directors, Academic Advisors, Counselors, Program Specialists, etc.); and EHRA faculty positions including fixed-term, probationary term (tenure track), and tenured.[The Department of Human Resources and the appropriate Division Office should be consulted prior to changes in a position's or individual's responsibilities (i.e. reclassifications, title changes, promotions, and reassignments, etc.).]This Regulation does not cover Clinical Support Services (CSS) positions.

3. Recruitment Requirements

3.1 Recruitment procedures and applicable exceptions are provided by the Standard Operating Practice (SOP) implementing this Regulation. Specifically, the EHRA Recruitment Compliance Review Process SOP, found at <http://www.ecu.edu/cs-acad/oed/policies.cfm>, must be followed in order to fill all EHRA positions lasting more than three days, except for some limited circumstances as provided in the SOP and based on the following exceptions, as permitted by applicable law:

3.1.1 Positions filled from within the University where no applicant external to the University has been considered for the position and hiring is made in compliance with the requirements found in the SOP; and

3.1.2 Positions at the director level or higher, with managerial roles, that(a) supervise two or more

staff; (b) have the authority to hire, fire or promote employees or provide recommendations for those actions; and (c) exercise discretionary powers with department or University-wide policy making/decision authority (e.g., SAAO's).

Additional information regarding these exceptions may be found in the implementing SOP. Information about the process for hiring employees into positions with a duration of three days or less may be obtained from the appropriate Division Office or the Department of Human Resources.

3.2 Only the Associate Provost for Equity and Diversity or the Chancellor have authority to waive EHRA recruitment requirements.

3.3 In order to comply with federal equal opportunity laws, search committees and hiring authorities must strategically plan how the position will be advertised to best ensure recruitment/outreach efforts will generate a well-populated, diverse pool of qualified applicants (including females, racial/ethnic minorities, veterans and individuals with a disability) and ensure those efforts are documented in accordance with the SOP implementing this Regulation. Use of search firms is addressed in the SOP.

3.4 The implementing SOP is subject to periodic updates. Any such revisions will be conducted in consultation with the Office of University Counsel.

4. Nondiscrimination

4.1 All selection decisions must meet the nondiscriminatory requirements as stated in the University's Notice of Nondiscrimination and Affirmative Action Policy and Equal Employment Opportunity Plan. Standards and criteria must be objective, job-related and consistent with business necessity. Position descriptions and qualifications may not include biased or unlawful discriminatory language based on any of the University's protected classes as outlined in the ECU Notice of Nondiscrimination and Affirmative Action Policy. Units with positions that will require medical examinations or medical questionnaires as a contingency of employment must consult with the OED at the initiation of the search process to ensure compliance with applicable provisions regarding medical examinations and questionnaires and confidentiality of such information.

5. Recruitment Record Keeping Requirements

5.1 Units are required by law to maintain all documentation of their efforts to implement equal opportunity recruitment procedures for all EHRA positions. Search files (or selection files if no search required) must contain all search or selection materials, as appropriate, and be retained by the hiring department pursuant to the University's record retention schedule. Units that have received notice that a complaint of discrimination has been filed must maintain all relevant search and personnel records, including but not limited to related emails, until at least one year after final disposition of the complaint or, if requested by the Office of University Counsel, a longer period as so requested.

5.2 Requests for accommodations and/or any medical records or information about an applicant must be kept separate from any other personnel information and maintained in a confidential medical personnel file separate from the search file.

6. Implementing Rulemaking Authority

The Associate Provost for Equity and Diversity has the authority to issue and shall be responsible for approving and implementing University wide rules and/or standard operating practices necessary to carry out the requirements of this Regulation.

**Faculty Senate Agenda
February 21, 2017
Attachment 4.**

FACULTY GOVERNANCE COMMITTEE REPORT
Formal Faculty Advice on Sexual and Gender-Based Harassment
and Other Forms of Interpersonal Violence Regulation

Suggested revisions to the regulation and appendices include the following:

- Provide a user friendly pamphlet that includes a succinct summary of duties, rights and opportunities in the diverse scenarios covered by the proposed regulation.
- Review whether the first phrase of section 9.3.4 is needed, in particular the words “under other statutes” because section 9.3.3 provides specific details from an NC statute, which includes points (A, D, E) that can apply to same sex relationships.
- Strive to have both appendices be uniform in their language and carefully check for places where the language seems ambiguous and confusing.
- Clarify the process within Appendix B, section 5.2 on the Sexual Misconduct Response Team, such as who the team relates to, when it applies and the steps involved in activating the team.
- Address editorial changes throughout the regulation to enhance the clarity and usability of the regulation such as: consistent use of the serial comma between all items in a list including before the last two, uniformly include periods at the end of a block of text, frame definitions in section 9 in consistent ways such as underlining key terms and using semi-colons correctly and revise conversational advice passage in 9.1.4 into a format more appropriate for a regulation.

Authority: Chancellor

History: Effective January 1, 2016, and as revised August 19, 2016, this Regulation replaces the following: Interim Regulation on Responding to Complaints of Sexual Harassment, Sexual Misconduct and/or Discrimination on the Basis of Sex; Sexual Harassment, Discrimination and Conflicts of Interest Policies and Procedures of East Carolina University; and Regulation Addressing Sexual Assault, Domestic and Dating Violence and Stalking as required by the Violence Against Women Act Amendments to the Clery Act – Interim.

Contact: Office for Equity and Diversity: 328-6804; Human Resources, Employee Relations: 328-9847; ECU Police Department: 328-6787; ECU Cares: 737-5555.

Related Policies:

POL 05.25.02, Notice of Nondiscrimination and Affirmative Action Policy; REG11.30.01, Student Conduct Process; Faculty Manual Part XII, Section IV; Faculty Manual Part IX, Section I; REG06.35.02, Mediation and Grievance Procedure for SHRA Employees;

Procedures for Reporting Harassment or Discrimination Based on an ECU Protected Class Against a CSS or EPA Non-Faculty Employee; REG06.35.01, Review Process and Procedure for EHRA Non-Faculty Employees; Clinical Support Services Employee Handbook, Section 20 (for CSS)

Additional References:

Resource and Reporting Guide for Student Reporting Incidents of Prohibited Conduct (A-1); Resource and Reporting Guide for Students Accused of Incidents of Prohibited Conduct (A-2);

Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct (B-1);

Resource and Reporting Guide for Employees Accused of Incidents of Prohibited Conduct (B-2);

Jeanne Clery Act (20 US Code § 1092(f)); VAW Amendments; ECU PD; Domestic Violence, NC General Statute §50B-1; Stalking, NC General Statute §14-277.3A; Article 7B – Rape and Other Sex Offenses, §14-27.20 through §14-27.36; ECU CARES; Title IX Coordinator; Report Disciplinary Complaint Against Student, OSRR; OSHR Employee Grievance Policy, Section 7;

ECU Title IX Resources; Title IX OCR provisions; U.S. Department of Education Office for Civil Rights, April 2011 Dear Colleague Letter: Sexual Violence; U.S. Department of Education Office for Civil Rights, 2014 Guidance; Text of Title IX (20 U.S.C. 1681-1688); U.S. Department of Education Office for Civil Rights Title IX General Information; Title IX Regulations; U.S. Department of Education Office for Civil Rights, Dear Colleague Letter: Sexual Violence Background, Summary, and Fast Facts; U.S. Department of Education Office for Civil Rights, Know Your Rights;

Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School; U.S. Department of Education Office for Civil Rights, Revised Sexual Harassment Guidance: Harassment of Students By School Employees, Other Students or Third Parties;
U.S. Department of Education Office for Civil Rights, Sexual Harassment: It's Not Academic;
U.S. Department of Justice The Campus Sexual Assault (CSA) Study;

[Appendix A - Procedures For Reports Against Students; Investigating and Resolving Reports of Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence Committed by Students Under the Regulation](#)

[Appendix B - Procedures for Reports Against Employees; Investigating and Resolving Reports of Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence Committed by Employees Under the Regulation](#)

[Appendix C - Training, Education and Prevention Programs; Regulation on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence](#)

REGULATION ON SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE

1. Introduction.

East Carolina University, a constituent institution of the University of North Carolina, strives to be a national model for student success, public service and regional transformation and is built upon tolerance, civility and mutual respect. Consistent with these values, the University is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. The University does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. To that end, this Regulation prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972 ("Title IX"); Title VII of the Civil Rights Act of 1964 ("Title VII"). Such behavior also requires the University to fulfill certain obligations under the Violence Against Women Reauthorization Act of 2013 ("VAWA") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

1.1. Prohibited Conduct. The University prohibits Sexual Assault, Offensive Touching, Sexual Exploitation, Dating and Domestic Violence, Stalking, Sexual or Gender-Based Harassment, Complicity in the commission of any act prohibited by this Regulation, and Retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this Regulation (collectively, "Prohibited Conduct"). These forms of Prohibited Conduct may be unlawful, undermine the character and purpose of the University, and will not be tolerated.

1.2. Purpose. The University adopts this Regulation with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering the University's Community of Trust, in which Prohibited Conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this Regulation will be evaluated and disciplinary action may be imposed. Employees or Students who violate this Regulation may face disciplinary action up to and including termination or expulsion. The University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The University conducts ongoing prevention, awareness, and training programs for Employees and Students to facilitate the goals of this

Regulation. Every member of the University community should foster an environment free of Prohibited Conduct. All members of the University community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. The University will support and assist community members who take such actions.

1.3. Application. This Regulation applies to all reports of Prohibited Conduct occurring on or after the effective date of this Regulation. Where the date of the Prohibited Conduct precedes the effective date of this Regulation, the definitions of misconduct in existence at the time of the alleged incident(s) will be used. The procedures under this Regulation, however, will be used to investigate and resolve all reports made on or after the effective date of this Regulation, regardless of when the incident(s) occurred.

2. To Whom This Regulation Applies

This Regulation applies to Students who are registered or enrolled for credit- or non-credit-bearing coursework (“Students”); University employees, consisting of all faculty, and staff, (“Employees”); and contractors, vendors, visitors, volunteers, guests or other third parties (“Third Parties”) such as Student applicants.

2.1. Location of Prohibited Conduct. This Regulation pertains to acts of Prohibited Conduct committed by or against Students, Employees and Third Parties when:

2.1.1. the conduct occurs on property owned or controlled by the University (“University property”);

2.1.2. the conduct occurs in the context of a University employment or education program or activity, including, but not limited to, University- sponsored study abroad, research, on-line, or internship programs; or

2.1.3. the conduct occurs outside the context of a University employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for Students, Employees or Third Parties while on University property or in any University employment or education program or activity.

2.2. Conflicting Provisions: This regulation supersedes any conflicting provisions contained in previous regulations, including but not limited to the “Interim Regulation on Responding to Complaints of Sexual Harassment, Sexual Misconduct and/or Discrimination on the Basis of Sex”, the “Sexual Harassment, Discrimination and Conflicts of Interest Policies and Procedures of East Carolina University”, and the “Regulation Addressing Sexual Assault, Domestic and Dating Violence and Stalking as required by the Violence Against Women Act Amendments to the Clery Act – Interim”. Where Prohibited Conduct violates this Regulation and also violates another Regulation, the University’s response will be governed by the procedures referenced in this Regulation. Questions about which Regulation applies in a specific instance should be directed to the University’s Title IX Coordinator at (252) 328-6804. Note that the University’s Office for Equity and Diversity administers a separate regulation that addresses other forms of discrimination and harassment: “the Regulation on Responding to Complaints of Prohibited Discrimination, Harassment and/or Related Retaliation.”

3. Applicable Procedures.

The specific procedures for reporting, investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent’s relationship to the University (Student, Employee, or Third Party). Each set of procedures referenced below is guided by the same principles of fairness and

respect for Complainants and Respondents. “Complainant” means the Student, Employee or Third Party who presents as the victim of any Prohibited Conduct under this Regulation, regardless of whether that person makes a report or seeks action under this Regulation. “Respondent” means the Student, Employee or Third Party who has been accused of violating this Regulation.

3.1. Disciplinary Action. A Student or Employee determined by the University to have committed an act of Prohibited Conduct is subject to disciplinary action, up to and including separation from the University. Third Parties who commit Prohibited Conduct may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn.

3.2. Procedures. The procedures referenced below provide for prompt and equitable response to reports of Prohibited Conduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a Regulation violation has occurred. The University applies the Preponderance of the Evidence standard when determining whether this Regulation has been violated. Meeting the preponderance of evidence standard constitutes a conclusion it is more likely than not that the alleged conduct occurred. This standard will be used to evaluate the evidence for purposes of making findings and drawing conclusions for an investigation conducted under this regulation.

3.2.1. Where the Respondent is a Student. The procedures for responding to reports of Prohibited Conduct committed by Students are detailed in [Appendix A: Investigating and Resolving Reports of Sexual and Gender- Based Harassment and Other Forms of Interpersonal Violence Committed by Students.](#)

3.2.2. Where the Respondent is an Employee. The procedures for responding to reports of Prohibited Conduct committed by Employees, including faculty, are detailed in [Appendix B: Investigating and Resolving Reports of Sexual and Gender- Based Harassment and Other Forms of Interpersonal Violence Committed by Employees.](#)

3.2.3. Where the Respondent is Both a Student and an Employee.

3.2.3.1. [Appendix A](#), the Student-Respondent procedures, will apply if the Respondent is a full-time Student but not a full-time Employee;

3.2.3.2. [Appendix B](#), the Employee-Respondent procedures, will apply if the Respondent is a full-time Employee but not a full-time Student; or

3.2.3.3. If there is a question as to the predominant role of the Respondent, the University’s Title IX Coordinator will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the Prohibited Conduct). Further, where a Respondent is both a Student and an Employee, the Respondent may be subject to any of the sanctions applicable to Students or Employees.

3.2.4. Where the Respondent is a Third Party. The University’s ability to take corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the University. The Title IX Coordinator will determine the appropriate manner of resolution consistent with the University’s commitment to a prompt and equitable process consistent with federal law, federal guidance, and this Regulation.

4. Title IX Coordinator.

Under Title IX:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

4.1. Role of the Title IX Coordinator. The Title IX Coordinator is charged with monitoring the University's compliance with Title IX; ensuring appropriate education and training; coordinating the University's investigation, response, and resolution of all reports under this Regulation; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator has the authority to modify the timelines in any existing University process in order to ensure a prompt and equitable resolution to a complaint, in compliance with applicable law or regulations. The Title IX Coordinator is available to meet with any Student, Employee, or Third Party to discuss this Regulation or the accompanying procedures. The University has also designated Deputy Title IX Coordinators who may assist the Title IX Coordinator in the discharge of these responsibilities. The Title IX Coordinator and Deputy Title IX Coordinators receive appropriate training to discharge their responsibilities.

4.2. ECU Police. The East Carolina University Police Department (ECUPD) maintains the campus crime log and is responsible for collecting and analyzing the statistics that are reported in the Annual Security and Fire Safety Report. The ECU Police Department will record and report on the Annual Security and Fire Safety Report, reports of sex offenses, domestic violence, dating violence, and stalking. The definitions of these offenses for the purpose of reporting statistics, are defined by the Uniform Crime Reporting National Incident-Based Reporting System, the Federal Bureau of Investigation definitions, and the Violence Against Women Act.

4.3. Contact for Concerns. Concerns about the University's application of Title IX, VAWA, and the Clery Act, may be addressed to the Title IX Coordinator; the United States Department of Education, Clery Act Compliance Division (at clery@ed.gov); the United States Department of Education, Office for Civil Rights (at OCR@ed.gov or (800) 421-3481); and/or the Equal Employment Opportunity Commission (at info@eeoc.gov or (800) 669-4000).

4.3.1. The Title IX Coordinator can be contacted by telephone, email, or in person during regular office hours: LaKeshia Alston Forbes, Title IX Coordinator; Old Cafeteria Building, Suite G-406 alstonl@ecu.edu; (252) 328-6804 (office); <http://www.ecu.edu/cs-acad/titleix/>

5. Resources and Reporting Options.

The University offers a wide range of resources for all Students and Employees to provide support and guidance in response to any incident of Prohibited Conduct. For comprehensive information on accessing University and community resources, including emergency and ongoing assistance; health, mental health, and victim-advocacy services; options for reporting Prohibited Conduct to the University and/or law enforcement; and available support with academics, housing, and employment:

5.1. Students should refer to the Student Resource Guides ([Additional Reference A-1](#) and [Additional Reference A-2](#));

5.2. Employees should refer to the Employee Resource Guides ([Additional Reference B-1](#) and [Additional Reference B-2](#)); and

5.3. Third Parties should contact the Title IX Coordinator to discuss available University and/or community resources and reasonably available assistance.

6. Remedial and Protective Measures.

The University offers a wide range of resources for Students and Employees, whether as Complainants or Respondents, to provide support and guidance throughout the initiation, investigation, and resolution of a report of Prohibited Conduct. The University will offer reasonable and appropriate accommodations and protective measures if requested and reasonably available, regardless of whether or not the event is reported to ECU Police or other law enforcement agencies and regardless of whether the victim desires to participate in University disciplinary proceedings or seek criminal charges. The goal of such measures is to facilitate the Complainant's continued access to University employment or education programs and activities. These measures may be both remedial (designed to address a Complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Accommodations and protective measures, which may be temporary or permanent, may include but are not limited to: no-contact directives, campus living modifications, transportation and parking modifications, academic modifications and support, work schedule modifications, investigatory placement, administrative suspension, and suspension from employment (with or without pay).

6.1. The University will maintain the privacy of any accommodations and protective measures provided under this Regulation to the extent practicable and will promptly address any violation of such measures. The Dean of Students Office and/or the Vice Chancellor with supervisory responsibilities has the discretion to impose and/or modify any accommodation or protective measure based on all available information and in consultation with the Title IX Coordinator. The Title IX Coordinator is available to meet with a Complainant or Respondent to address any concerns about the provision of interim measures.

6.2. The University will provide reasonable accommodations or protective measures to Third Parties as appropriate and available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.

7. Privacy and Confidentiality.

The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this Regulation to the extent allowed by law. The University also is committed to providing assistance to help Students, Employees and Third Parties make informed choices. With respect to any report under this Regulation, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. Privacy and confidentiality have distinct meanings under this Regulation

7.1. Privacy. Privacy means that personally identifiable information related to a report of Prohibited Conduct will be shared with a limited circle of University Employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the University's response to reports of Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

7.1.1. The privacy of Student education records will be protected in accordance with the

Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA policy. The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA. Access to an Employee’s personnel records may be restricted in accordance with the North Carolina Human Resources Act, N.C. Gen. Stat. section 126-22 et seq. and the North Carolina Public Records Act, N.C. Gen. Stat. section 132-1 et seq. and the University’s record retention policy

7.2. **Confidentiality:** Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under the law. The University has designated individuals who have the ability to have privileged communications as “Confidential Employees.” These resources adhere to strict standards of confidentiality, without sharing what an individual has told them other than in limited circumstances. Victim Advocates are considered confidential employees for purposes of confidentiality. These resources can provide information and other wellness services. When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) there is a legally mandated reporting requirement, regarding information concerning conduct involving suspected abuse, neglect or dependency of a juvenile (one who has not reached their eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States.

7.2.1. A “**Confidential Employee**” is (1) any Employee who is a licensed medical, clinical or mental-health professional when acting in that professional role in the provision of services to a patient (“health care providers”); and (2) any Employee providing administrative, operational and/or related support for such health care providers in their performance of such services.

7.2.1.1. **Duty to Report:** A Confidential Employee will not disclose information about Prohibited Conduct to the University’s Title IX Coordinator without the individual’s permission (subject to the exceptions set forth in section 7.2 of this Regulation)

7.3. A “**Responsible Employee**” is (1) a person designated as a supervisor of any University employee; (2) any person who is designated as a Campus Security Authority; or (3) any ECU employee responsible for coordinating or supervising clinical education experiences, practicum and/or internships. Responsible Employees must report incidents of Prohibited Conduct to the Title IX coordinator and must not attempt mediation with the Complainant and Respondent. Faculty and other ECU employees who are responsible for coordinating or supervising clinical education experiences, practicum and/or internships are considered to be Responsible Employees with respect to the students participating in those experiences, and are required to report any allegations of Prohibited Conduct that they receive relating to those students to the Title IX coordinator. The University reserves the right to take disciplinary action against a Responsible Employee, up to and including discharge from employment, who fails to report Prohibited Conduct to the Title IX Coordinator.

7.3.1. **Duty to Report:** A Responsible Employee is required to report to the University’s Title IX Coordinator all relevant details (obtained directly or indirectly) about an incident of Prohibited Conduct that involves a campus community member as a Complainant, Respondent, and/or

witness, including dates, times, locations, and names of parties and witnesses. Responsible Employees include Resident Assistants, Graduate Teaching Assistants, and all other student-employees, when disclosures are made to any of them in their capacities as employees. Responsible Employees are not required to report information disclosed (1) at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose incidents of Prohibited Conduct; collectively, “Public Awareness Events”), or (2) during a student’s participation as a subject in an Institutional Review Board-approved human subjects research protocol (“IRB Research”). The University may provide information about Students’ Title IX rights and about available University and community resources and support at Public Awareness Events, however, and Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all Student subjects of IRB Research.

7.3.1.1. Responsibility to Report Prohibited Conduct Where Either the Complainant or the Respondent Is an Employee: Under this Regulation, supervisors, management and human resources professionals are required to report to the University’s Title IX Coordinator all relevant details about an incident of Prohibited Conduct where either the Complainant or the Respondent is an Employee. Reporting is required when such supervisors, management and human resource professionals know (by reason of a direct or indirect disclosure) or should have known of such Prohibited Conduct. For academic faculty, supervisors include department chairs, deans, and other unit administrators

7.3.2. Training: New supervisors (including those recently promoted to supervisor status) will be required to complete responsible employee training within 90 days of their status change. All responsible employees will be required to complete training by July 15, 2017, and every three calendar years thereafter

7.3.3. Campus Security Authority (CSA)

7.3.3.1. Who are CSAs? ECU officials who have significant responsibility for student and campus activities are designated as Campus Security Authorities. They are listed in the annual security report, which is accessible on the ECUPD website. These individuals include but are not limited to officials in the Office for Equity and Diversity, the ECUPD, Office of Student Rights and Responsibilities, the Campus Living Conduct Office, any Campus Living coordinator or resident advisor, an advisor of a registered student organization and coaches for athletic teams. ECU CSAs are listed in the annual security report that is published on October 1 each year on the ECU Police website. Each CSA must ensure that the Anonymous Crime Reporting Form is completed and submitted to the ECU Police Department.

7.3.3.2. Who are not CSAs? Faculty members who do not have any responsibility for student and campus activity beyond the classroom and clerical staff are not considered CSAs, and therefore are not required to complete the Anonymous Crime Reporting Form. All individuals receiving reports of crimes, are encouraged to offer to assist the reporter in completing an anonymous crime report for inclusion in the annual security report statistics. Counselors in the Center for Counseling and Student Development and medical providers in Student Health Services, are not required to report information received when they are functioning within the scope of their license, certification or religious training, and performing their official duties providing mental health counseling, medical care or religious counseling.

7.4. Confidential Resources. Consistent with the definition of Confidential Employees and licensed community professionals, there are a number of resources within the University and Greenville communities where Students and Employees can obtain confidential, trauma-informed

counseling and support. These resources include the Victim Advocate (252-737-1466); and REAL Crisis Intervention (252-758-4357).

7.4.1. Students can also obtain such counseling at the Center for Counseling and Student Development. For a complete list of University and community-based confidential resources for Students, see the Resource and Reporting Guide for Students Reporting Incidents of Prohibited Conduct (A-1) and the Resource and Reporting Guide for Students Accused of Incidents of Prohibited Conduct (A-2).

7.4.2. Employees can also obtain such counseling through the Employee Assistance Program, either the Carolina Centre (252-757-0123) or the ECU Family Therapy Clinic (252-737-1415). For a complete list of University and community-based confidential resources for Employees, see the Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct (B-1) and the Resource and Reporting Guide for Employees Accused of Incidents of Prohibited Conduct (B-2).

8. Reporting.

There are multiple channels for reporting Prohibited Conduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action. The University will support Complainants in understanding, assessing and pursuing these options. There are certain persons on campus who must report a crime, but those reports need not identify the complainant, for instance, campus security authorities must complete anonymous crime reporting form, which does not require the disclosure of any personally identifying information about the victim. Rather it is collected so that the University can stay informed about trends, areas of particular concern and target educational needs

8.1. Law Enforcement. Complainants have the right to notify or decline to notify law enforcement. In keeping with its commitment to taking all appropriate steps to eliminate, prevent, and remedy all Prohibited Conduct, the University urges Complainants to report Prohibited Conduct **immediately** to local law enforcement by contacting:

- 911 (for emergencies)
- Greenville Police Department (252) 329-4315 (for non-emergencies)
- Pitt County Sheriff's Office (252) 902-2800 (for non-emergencies)
- ECU Police Department (252) 328-6787 (for non-emergencies)

8.1.1. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders. The University will assist Complainants in notifying law enforcement if they choose to do so.

8.1.2. A University investigation with respect to Title IX is separate from a criminal investigation (into complaints alleging harassment or sexual violence that constitutes a criminal offense, such as assault, offensive touching, rape or another form of violence or sexual violence). A Complainant can file a police report at any time, including during the duration of an investigation under this regulation. The University will assist in connecting the Complainant with the law enforcement agency of the applicable jurisdiction. The standard of evidence for conviction in criminal cases ("beyond a reasonable doubt") is a higher standard than the University will use in a Title IX investigation ("preponderance of the evidence"). An investigation will continue to go forward during a criminal investigation. Reporting to the police and/or the

University does not end the investigatory responsibility for the University.

8.1.3. **Clery Act Reporting:** Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. These statistics include the total number of crime reports that were “unfounded” and subsequently withheld from the crime statistics reported in the Annual Security and Fire Safety Report. Unfounded reports are those that have been fully investigated by sworn law enforcement personnel and, based on the results of this full investigation and evidence, have made formal determination that the crime report is false or baseless. Recovery of stolen property, stolen property that is of low value, the refusal of a victim to cooperate with law enforcement or the failure to make an arrest do not justify classifying a report as “unfounded.” The Clery Act also requires the University to issue timely warnings to the University community about certain crimes that have been reported and may continue to pose a serious or continuing threat to Students and Employees. Consistent with the Clery Act, the University withholds the names and other personally identifying information of Complainants when issuing timely warnings to the University community

8.2. **The University.** The University also urges anyone who becomes aware of an incident of Prohibited Conduct to report the incident ***immediately*** to the University through the following reporting options:

8.2.1. By contacting the University’s Title IX Coordinator or any Deputy Title IX Coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed in Section IV, above; or

8.2.2. By contacting ECU CARES, where members of the campus community can make reports of concerning behavior on campus, including acts of Prohibited Conduct. It can be accessed online at www.ecu.edu/ecucares or by phone at (252) 737-5555.

8.2.3. There is no time limit for reporting Prohibited Conduct to the University under this Regulation; however, the University’s ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the University. If the Respondent is no longer a Student or an Employee, the University will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

8.3. **The Good Samaritan.** The University’s “Good Samaritan” regulation is applicable to a student(s) who summon(s) medical attention for a person (including themselves) in need of medical assessment and/or treatment for a problem to which the student may have contributed or caused by participating in the use and abuse of alcohol and/or other drugs. While the University does not condone violations of the Student Code of Conduct or state and federal laws, the University may take into consideration potentially life-saving actions of students who act as “Good Samaritans” by reducing the disciplinary actions associated with alcohol and/or other drug use violations, including limited immunity to campus student conduct charges. More information about the Good Samaritan Regulation can be found on the University’s Policy Manual website.

9. Prohibited Conduct.

Conduct under this Regulation is prohibited regardless of the sex, sexual orientation and/or gender identity/expression of the Complainant or Respondent. Prohibited Conduct includes the

following specifically defined forms of behavior: Sexual Assault, Offensive Touching, Sexual Exploitation, Dating and Domestic Violence, Stalking, Sexual or Gender-Based Harassment, Complicity, and Retaliation.

9.1. Sexual Violence. Sexual Violence consists of (1) Sexual Assault and/or (2) Offensive Touching.

9.1.1. Sexual Assault is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by any sex organ (penis, vagina, or anus) of another person, without their consent.

9.1.2. Offensive Touching is the intentional sexual touching, without consent, of another person's intimate parts (genitalia, groin, breast, buttocks, or mouth), whether clothed or unclothed, or the intentional sexual touching, without consent, of another person with one's intimate parts, or, for purposes of sexual gratification, using force to cause another person to touch his/her own or another person's intimate parts. Offensive touching may be committed using one's own body, a part thereof, or an object.

9.1.3. Consent is

9.1.3.1. Informed (knowing),

9.1.3.2. Voluntary (freely given), and

9.1.3.3. Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed- upon sexual activity

9.1.3.4. Consent is explicit approval and permission to engage in sexual activity demonstrated by clear actions, words, or writings. Consent is informed, freely given, continuing, and mutually understood by all parties involved. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the Complainant was mentally or physically incapacitated or impaired so that the Complainant could not understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious, or under the age of legal consent, or unable to give consent under current law. If a person becomes incapacitated after consent is given, but before the sexual act is initiated or completed, consent is no longer valid. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. Whether the Respondent has taken advantage of a position of influence over the Complainant may be a factor in determining whether consent was freely given. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Consent can be withdrawn at any time

9.1.3.5. Force. Consent cannot be obtained by Force. Force includes (1) the use of physical violence, (2) threats, (3) intimidation, and/or (4) coercion

9.1.3.5.1. Physical force means exerting physical control over another person. Examples of physical force include but are not limited to hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon

9.1.3.5.2. Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples of threats include but are not limited to verbal statements reflecting intent to harm a person physically, to reveal private information to harm a person's

reputation, or to cause a person academic or economic harm.

9.1.3.5.3. Intimidation is an implied threat that causes reasonable fear in another person. Examples of intimidation include but are not limited to: destroying property, brandishing a weapon, blocking an exit to cause fear. A person's size, alone, may not constitute intimidation; however, a person's size may be used in a way that does.

9.1.3.5.4. Coercion is the use of an unreasonable amount of pressure to gain sexual access. This unreasonable pressure includes, but is not limited to, physical intimidation such as threats of violence and non-physical intimidation such as threats of financial harm or public disgrace. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes clear a decision not to participate in a particular form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued unreasonable pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

9.1.3.6. Incapacitation. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. However, the consumption of alcohol and/or drugs does not automatically mean that a person is incapacitated.

9.1.4. University Guidance on Consent and Assessing Incapacitation:
A person who wants to engage in a specific sexual activity is responsible for obtaining Consent for that activity. Lack of protest does not constitute Consent. Lack of resistance does not constitute Consent. Silence and/or passivity also do not constitute Consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this Regulation.

It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to discuss with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue sexual activity.

Consent to one form of sexual activity does not, by itself, constitute Consent to another form of sexual activity. For example, one should not presume that Consent to oral-genital contact constitutes Consent to vaginal or anal penetration. Consent to sexual activity on a prior occasion does not, by itself, constitute Consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Consent.

Consent may be withdrawn at any time. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the sexual activity. However, consent is automatically withdrawn once an individual becomes incapacitated, if the person seeking to engage in sexual activity knew or should have known that the other person became incapacitated. Once Consent is withdrawn, the sexual activity must cease immediately. In evaluating Consent in cases of alleged incapacitation, the University asks two questions: (1) *Did*

the person initiating sexual activity know that the other party was incapacitated? and if not, (2) Should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either of these questions is “YES,” Consent was absent and the conduct is a violation of this regulation.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”

One should be cautious before engaging in Sexual Contact or Sexual Intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs creates ambiguity for either party as to whether Consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity

Being impaired by alcohol or other drugs is no defense to any violation of this regulation.

9.2. Sexual Exploitation. Occurs when an individual 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 that behavior does not otherwise constitute one of the other

Prohibited Conduct offenses in this Regulation. Examples of sexual exploitation include but are not limited to any of the following:

9.2.1. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give Consent to sexual activity;

9.2.2. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or livestreaming of images);

9.2.3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including but not limited to genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);

9.2.4. Recording or photographing private sexual activity and/or a person’s intimate parts (including but not limited to genitalia, groin, breasts or buttocks) without consent;

9.2.5. Disseminating or posting images of private sexual activity and/or a person’s intimate parts (including but not limited to genitalia, groin, breasts or buttocks) without consent;

9.2.6. Prostituting another person; or

9.2.7. Knowingly exposing another person to a sexually transmitted infection or virus without

the other's consent. 9.3. Dating and Domestic Violence.

9.3.1. Dating Violence: is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting

9.3.1.1. Under North Carolina law, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship

9.3.2. Domestic Violence: is a felony or misdemeanor crime of violence committed: (A) by a current or former spouse or intimate partner of the victim; (B) by a person with whom the victim shares a child in common; (C) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (D) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; (E) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

9.3.2.1. As defined by North Carolina General Statutes section 50B-1, domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person as listed above. It does not include acts of self-defense. Domestic Violence includes but is not limited to:

- Physical violence or attempted physical violence;
- Making one fear, or one's household members fear serious bodily injury or continued harassment;
- Stalking an individual or family member that rises to such a level as to inflict substantial emotional distress; or
- Committing any act defined as a rape or other sex offenses in North Carolina General Statute sections 14-27.2 through 14-27.7.

9.3.3. For the purpose of seeking a protective order under section 50B-1 of the N.C. General Statutes and its definition of domestic violence, the term "personal relationship" means a relationship wherein the parties involved: (A) Are current or former spouses; (B) Are persons of opposite sex who live together or have lived together; (C) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. (Note: an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16) (D) Have a child in common; (E) Are current or former household members; (F) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship

9.3.4. Persons in same sex domestic relationships are protected from violent behavior under other statutes and the University will investigate and address allegations of domestic violence by individuals who have cohabitated as spouses or intimate partners

9.4. Stalking. Stalking occurs when a person engages in a course of conduct directed at a

specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.

9.4.1. Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property. Substantial emotional distress means significant mental suffering or anguish.

9.4.2. Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact

9.5. Sexual or Gender-Based Harassment.

9.5.1. Sexual Harassment is any unwelcome sexual conduct, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in 9.5.3 and/or 9.5.4, below, are present

9.5.2. Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (9.5.3 and/or 9.5.4, below, are present.

9.5.3. For conduct to meet the definition of Sexual Harassment or Gender-Based Harassment, it must meet one of the following criteria, in addition to the definition stated in Section 9.5.1 or 9.5.2:

9.5.3.1. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (often referred to as "*quid pro quo*" harassment); or

9.5.3.2. Such conduct creates a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment

9.6. Retaliation. Retaliation means any act of interference, restraint, penalty, discrimination, coercion, reprisal, intimidation, threats, or harassment against an individual for using applicable policies responsibly (including making a charge of discrimination protected by this Regulation; testifying, assisting, or participating in a hearing, proceeding, review process or investigation of discrimination; opposing an illegal act; requesting a reasonable disability or religious accommodation; or exercising any other right protected by this Regulation).

9.7. Complicity. Complicity is any act taken with the purpose of materially or substantively aiding, facilitating, promoting or encouraging the commission of an act of Prohibited Conduct by another person

10. Violations of Law.

Behavior that violates this Regulation may also constitute a crime. For example, North Carolina criminalizes and punishes some forms of Sexual Assault, Dating and Domestic Violence, Sexual Exploitation, Stalking, and Assault. The criminal statutes that may apply in cases Sexual Assault may be found in N.C. General Statutes sections 14-27.1 through 14-27.10 and 14-178. The criminal statutes that relate to Stalking may be found in N.C. General Statutes sections 14-277.3A. The criminal statutes that relate to Domestic Violence may be found in N.C. General Statutes section 50B. This compilation of criminal statutes is not exhaustive, but is offered to notify the University community that, some forms of Prohibited Conduct may also constitute crimes under North Carolina law, which may subject a person to criminal prosecution and punishment in addition to any sanctions under this Regulation.

11. Prevention and Awareness Programs.

The University is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming Students and new Employees receive primary prevention and awareness programming as part of their orientation, and returning Students and current Employees receive ongoing training and related education. For a description of the University's Prohibited Conduct prevention and awareness programs, including programs on minimizing the risk of incidents of Prohibited Conduct and bystander intervention, see [Appendix C](#).

12. Training.

The University provides training to Students and Employees to ensure they understand this Regulation and the topics and issues related to maintaining an education and employment environment free from harassment and discrimination. For a description of the University's training related to this Regulation, see [Appendix C](#).

13. Obligation to Provide Truthful Information.

All University community members are expected to provide truthful information in any report or proceeding under this Regulation. Submitting or providing false or misleading information in bad

faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions under the University's Student Code of Conduct and disciplinary action under the appropriate Employee disciplinary policy. This provision does not apply to reports made or information provided in good faith, even when the alleged facts are later not substantiated.

14. Annual Review.

This Regulation is maintained by the Title IX Coordinator. The University will review and update this Regulation, as appropriate, by July 31 of each year. The University will evaluate, among other things, any changes in legal requirements, existing University resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed). The Title IX Coordinator shall certify to the Chancellor.