I. 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 integrity, trust 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, the University has adopted a Regulation on Sexual and Gender Based Harassment and Other Forms of Interpersonal Violence that 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”).

II. Information if you are Accused of Prohibited Conduct

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   2. Common Feelings After Being Accused
   3. Resources
   4. Retaliation Policy

B. Investigation
   1. General Information
   2. Findings
   3. Support Person

III. Disciplinary Procedure

A. Introduction

B. Disciplinary Action

IV. Definitions
The University prohibits Sexual Assault, Sexual Battery, Sexual Exploitation, Dating and Domestic Violence, Stalking, Sexual or Gender-Based Harassment, Complicity in the commission of any act prohibited by the 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 the 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.

This document is to supplement the University’s Regulation on Sexual and Gender Based Harassment and Other Forms of Interpersonal Violence and is in compliance with the Violence Against Women Amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). This information is provided to inform individuals about their rights and options regarding the Regulation and resources available through both the University and the Greenville community.

The Violence Against Women Amendments to the Clery Act require colleges and universities to inform individuals of their rights and options regarding incidents of sexual assault, domestic violence, dating violence, and stalking. The information provided is not meant to substitute criminal proceedings. Information regarding how to pursue criminal charges can be found in this document, however the University’s Regulation and procedures are not of a criminal nature and there is a fundamental difference between the University’s procedure and a criminal one.

Students, faculty, and staff members who report violations of the Regulation will be given a copy of this document and will be advised of all rights and options available to them. This document and the overarching Regulation will also be available on the University’s website as a reference.

II. If You Are Accused of Sexual Assault

A. Information for Respondents

1. General

Prohibited Conduct investigations are intended to be fair, unbiased, and prompt, and the investigator will gather as much information as possible before making a determination about whether there was a policy violation.

If you have been named as the respondent in a Prohibited Conduct complaint, you will have the opportunity to respond to the allegation and present your side of the story. An investigator will contact you to schedule a meeting. At that meeting, you will be asked to provide your version of events.

Keep in mind that the University process is an administrative process and is not the same as a criminal process. A criminal process looks into whether a crime has been committed; the University process looks into whether a University policy has been violated. The University process uses the "preponderance of the evidence" standard, which weighs whether it is more likely than not that a policy violation occurred. This
is a much lower standard than the criminal standard, "beyond a reasonable doubt." A
University process may result in a different finding than a criminal process because
of the different burdens of proof, among other factors.

2. Common Feelings after Being Accused of Sexual Violence

Emotional responses will vary from individual to individual. Being accused of sexual
assault can be traumatic and life-changing. It’s important to remember that your
responses are not crazy; they are normal reactions to a difficult situation – being
accused of sexual assault. Below are some common feelings you may experience.

Shock and Numbness
You may experience feelings of disbelief or denial about what happened. You may
feel emotionally detached or drained. Other reactions to the emotional shock may
include: crying, anger, laughing nervously, withdrawing, or claiming to feel nothing
or be “fine.” Often individuals feel overwhelmed to the point of not knowing how
to feel or what to do.

Disruption of Daily Life
You may feel preoccupied with thoughts about the incident. It may be difficult to
concentrate, attend class, or focus on school work. You may have trouble sleeping,
appetite changes, general anxiety, or depression.

Loss of Control
You may feel overwhelmed. You may also feel anxious, scared, or nervous and
often have a difficult time concentrating. Decision that previously were made
routinely before now may feel monumental.

Fear
You may fear what may happen and how your life may change. You may be afraid
of what other peers or family may say about him/her or if there might be retaliation
towards him/her. You may find himself/herself not knowing who to trust.

Anger
You may have different reasons to feel angry. Anger is an appropriate response to
sexual assault. You may vary in how you express anger. Anger can be vented in
safe and healthy ways, or can be internalized, where it may become irritability,
anxiety, or depression. Please be careful to avoid unhealthy ways of coping with
anger such as alcohol or drug use, cutting, or other self-destructive behavior.

Isolation
You may isolate yourself in fear of rumors or retaliation. You may not want to
bother anyone because of embarrassment and fear of others judging you, so you
do not talk about the incident or your feelings. Also you may withdraw or distract
themselves from family or friends.

3. Resources
Please refer to the chart provided regarding contact information for reporting resources. If it is an emergency situation, please call 911. If you have experience violence, you are encouraged to seek immediate assistance from police and healthcare providers for your physical safety, emotional support and medical care.

ECU PD can assist you in filing a criminal report regardless of whether the crime occurred on campus or not. This may include assisting with reporting to the Greenville Police Department or other local law enforcement.

If you are in need of medical assistance, the emergency room is located 1.9 miles from Main Campus at Vidant Medical Center, NC 27834.

Report the incident to the Title IX Coordinator, LaKesha Alston Forbes at (252) 328 – 6804 or oed@ecu.edu. The Title IX Coordinator can assist you in identifying on and off campus resources and beginning an investigation through the University. The Title IX Coordinator can also assist in filing a criminal report should you wish to do so. You can may report the incident to the Employee Relations in Human Resources at (252) 328-9848. You may also report the incident to through ECUCARES at (252) 737-5555, which is administered by the campus safety professionals in the Dean of Students Office, and they can connect you to on campus resources.

Speak with a Confidential Resource about the matter. Confidential Resources will not be able to reveal information you share without your express consent. ECU employees may access the university’s Employee Assistance Program. ECU has contracted with the Carolina Centre and the ECU Family Therapy Clinic to provide EAP services. Employees can contact these providers, identify themselves as an ECU employee, and schedule an appointment. The program allows for three visits a year paid and the initial counseling session is free, and is available on a sliding scale thereafter. Employees may also consult with the Victim Advocate at (252) 737-1466. Anything discussed with a counselor or the Victim Advocate is confidential and will not be shared with anyone without your consent.

4. Retaliation Policy

It is against the University’s Notice of Nondiscrimination to retaliate against individuals who file a complaint. Retaliation is any reprisal, interference, penalty, discrimination, coercion, or harassment of the individual in response to the filing of the complaint.
## EMERGENCY, LAW ENFORCEMENT, & MEDICAL RESOURCES

<table>
<thead>
<tr>
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<th>Phone Numbers</th>
<th>Address</th>
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<tbody>
<tr>
<td>Greenville Police Department:</td>
<td>Non-Emergency</td>
<td>(252) 329 - 4315 500 S. Greene St.</td>
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<tr>
<td></td>
<td>Information Desk</td>
<td>(252) 329 - 4317</td>
</tr>
<tr>
<td>Pitt County Sheriff’s Office:</td>
<td>Office Hours M - F, 8:00 - 5:00</td>
<td>(252) 902 - 2800 100 W. 3rd St.</td>
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<tr>
<td></td>
<td>24 hour dispatch</td>
<td>(252) 830 - 4141</td>
</tr>
<tr>
<td>*Vidant Medical Center:</td>
<td>Information</td>
<td>(252) 847 - 4100 2100 Stantonsburg Rd.</td>
</tr>
<tr>
<td></td>
<td>Emergency Department</td>
<td>(252) 847 - 0279</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(252) 847 - 0191</td>
</tr>
<tr>
<td>Minor Emergency Department</td>
<td></td>
<td>(252) 847 - 1537 2380 West Arlington Blvd.</td>
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## UNIVERSITY

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<th>Phone Numbers</th>
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<tr>
<td>ECU Police Department:</td>
<td>Emergency 911</td>
<td>Blount House</td>
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<tr>
<td></td>
<td>Non-Emergency</td>
<td>(252) 328 - 6787 609 E. Tenth St.</td>
</tr>
<tr>
<td></td>
<td>East Campus Hotline</td>
<td>(252) 328 - 0062</td>
</tr>
<tr>
<td></td>
<td>West (Health Sciences) Campus Hotline</td>
<td>(252) 744 - 5080</td>
</tr>
<tr>
<td>ECU CARES:</td>
<td></td>
<td>(252) 737 - 5555</td>
</tr>
<tr>
<td>Title IX Coordinator:</td>
<td>LaKesha Alston Forbes</td>
<td>(252) 328 - 6804</td>
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## COUNSELING & VICTIM ADVOCACY RESOURCES

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<th>Phone Numbers</th>
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<tbody>
<tr>
<td>Employee Assistance Program:</td>
<td>*Carolina Centre</td>
<td>(252) 757 - 0123 702 Johns Hopkins Dr.</td>
</tr>
<tr>
<td></td>
<td>*ECU Family Therapy Clinic</td>
<td>(252) 737 - 1415 612 E. 10th St.</td>
</tr>
<tr>
<td>(*)(**)Victim Advocate (in cases of sexual trauma)</td>
<td></td>
<td>(252) 737 - 1466 137 Umstead</td>
</tr>
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## COMMUNITY RESOURCES

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<thead>
<tr>
<th></th>
<th>Phone Numbers</th>
<th>Address</th>
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</thead>
<tbody>
<tr>
<td>*REAL Crisis Intervention:</td>
<td></td>
<td>(252) 758 - 4357 1011 Anderson St.</td>
</tr>
<tr>
<td>*Center for Family Violence Prevention:</td>
<td>24 Hour Crisis Line</td>
<td>(252) 752 - 3811 150 E. Arlington Blvd., Ste. D</td>
</tr>
<tr>
<td></td>
<td>Toll Free</td>
<td>(800) 537 - 2238</td>
</tr>
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*Items denoted with * are considered Confidential Resources.

**The Victim Advocate on campus will see an employee for a one-time crisis visit
B. **Investigation**

1. **General Information**

   During the investigation, the investigator will gather evidence and interview other people involved, including any potential witnesses. We try to keep the investigation as confidential as possible and ask all participants to keep to themselves any information they learn through the investigation, although no one is under a gag order and everyone is free to talk about their own experiences.

   We try to conduct the investigation in as timely a manner as possible, but there may be delays in coordinating meetings and gathering evidence. We will try to keep you apprised of what is going on, but you are welcome to get in touch with us if you are wondering where the investigation is.

   Once the investigation is concluded, the Office for Equity and Diversity will notify both parties of the outcome.

2. **Finding**

   The investigator will determine whether there is a violation of University policy based on a preponderance of the evidence—that is, whether it is more likely than not that a policy violation occurred. Both parties will receive notification regarding the investigation outcome. A comprehensive report, detailing the investigation and the evidence found will be reviewed by the University to determine what, if any action is necessary to protect the University community. Review of this report and any University action will be completed through the disciplinary process outlined below.

3. **Support Person**

   Both parties have the right to have an advisor of their choice present at all meetings throughout the disciplinary process. Both parties are entitled to the same right to have an advisor present. This advisor may be an attorney, paid at a party’s own expense, however each party is limited to one person as an advisor.

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**III. Disciplinary Procedure**

A. **Introduction**

   It is the complainant’s right to notify law enforcement and to be assisted by university officials in doing so. Thus, it is the complainant’s right to decide whether or not to involve law enforcement. Declining the involvement of law enforcement does not prevent the complainant from receiving assistance from the university. A complainant also has the right to use the universities procedures in addition to filing a criminal complaint.
When necessary, temporary action may be taken by the University pending the resolution of a conduct case in order to preserve the safety and well-being of the ECU community and its members. These actions include, but are not limited to, restriction of access or privileges, or removal from the workplace, and/or administrative suspension (e.g. immediate separation). For cases specific to Prohibited Conduct, in addition to the measures listed above, the university may take interim measures to protect you in the educational setting or workplace based on the facts specified in the allegation, including but not limited to: minimizing contact with the Respondent and allowing you to change extracurricular activities your working situation as appropriate. Both you and the respondent, in cases specific to Prohibited Conduct, will be provided information about available on and off campus resources, including but not limited to: victim advocacy, counseling/mental health services, disability support services, health services, and explanation and assistance regarding reporting a crime to campus or local law enforcement.

B. Disciplinary Action

If disciplinary action is pursued, the University will determine which disciplinary proceedings should apply based on the employment status of (faculty member, staff employee, employee not subject to the state personnel act, student) at the time the incident occurred.

Depending upon the applicable process, a hearing may be conducted by an individual university administrator, a faculty panel, an employee grievance board, or the student conduct board. Parties may elect or decline to participate in any relevant process, but the University must reserve the right to proceed regardless of a party’s participation if it determines that is in the best interest of the ECU community.

The anticipated steps, timelines, and decision making process (including appeals) are outlined in the applicable proceedings. When the respondent is a faculty member the ECU Faculty Manual, Part XII, Section IV, and Part IX, Section I includes detailed timelines regarding these proceedings; when the grievant or respondent is an employee who is subject to the State Human Resources Act the Mediation and Grievance Procedure for SPA Employees, REG 06.35.02 outlines the additional steps, anticipated timeline and decision- making process; when the respondent is a non-faculty employee who is exempt from the State Human Resources Act, the Review Process and Procedures for EPA Non-Faculty Employees, POL 06.35.01; and when the respondent is a Clinical Support Staff employee the process is outlined in the Clinical Support Services Employee Handbook.

IV. Definitions

1. Sexual Assault is:
   - Any penetration
   - However slight
   - With any object or body part (as described below)
• Performed by a person upon another person

Sexual Assault includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without their consent. North Carolina law defines these crimes in its General Statutes sections 14-27.1 through 14-27.10 and 14-178.

2. Sexual Battery is:
   • Any intentional sexual touching
   • However slight
   • With any object or body part (as described below)
   • Performed by a person upon another person or causing another person to touch their own or another’s body in the manner described below.

Sexual Battery includes the intentional or attempted sexual touching of another person’s clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner without their consent.

Consent is:
   • Informed (knowing)
   • Voluntary (freely given)
   • Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity

Consent is explicit approval and permission to engage in sexual activity demonstrated by clear actions, words, or writings. Consent is informed, freely given 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. 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.
Consent cannot be obtained by Force. Force includes (a) the use of physical violence, (b) threats, (c) intimidation, and/or (d) coercion.

a) 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.

b) 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.

c) 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.

d) Coercion is the use of an unreasonable amount of pressure to gain sexual access. 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 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.

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.

The University offers the following 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 the 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. 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 the 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 in comprehensible 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 the Regulation.*

B. 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 the Regulation.

Examples of sexual exploitation include but are not limited to any of the following:

- 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;
- 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);
- 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);
- 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;
- 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;
- Prostitution another person; or
- Knowingly exposing another person to a sexually transmitted infection or virus without the other’s consent.

C. DATING AND DOMESTIC VIOLENCE

**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 of 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.

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.

**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
cohabitation 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.

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. Such acts include but are 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.

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.
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.

D. **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.

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.

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.

E. **SEXUAL OR GENDER-BASED HARASSMENT**

**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 (1) and/or (2), below, are present.

**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 (1) and/or (2), below, are present.

(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
(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 benefitting 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.

F. 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 the 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 the Regulation).

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