RESOURCE AND REPORTING GUIDE FOR STUDENTS REPORTING INCIDENTS OF PROHIBITED CONDUCT

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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”).

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.

I. If You Are A Victim

A. Reporting Resources

1. General + Resource Chart
Please refer to the chart provided regarding contact information for reporting resources. If it is an emergency situation, please call 911. If you have experienced 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. In addition, Student Health Services is available as an on-campus health resource for students. A Sexual Assault Nurse Examiner who is available to perform a sexual assault examination at Student Health Services can be reached by calling the 24 hour nurse assistance line at (252) 328-6841. Student Health is located in the Student Health Services building on Main Campus in between Joyner East and the Flanagan Building.

**Report the incident to the Title IX Coordinator**, LaKesha Alston Forbes at (252) 328 – 6804 or oedl@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 may report the incident to the Dean of Students Office. This may be done in person or by phone through ECUCARES at (252) 737-5555. The Dean of Students Office is located on the 3rd Floor of the Wright Building.

**Speak with a Confidential Resource about the matter.** Confidential Resources will not be able to reveal information you share without your express consent. Counseling is available free of charge to ECU students through the Center for Counseling and Student Development (252) 328-6661 and, in the case of sexual trauma, through the Victim Advocate (252) 737-1466. Anything discussed with a counselor or the Victim Advocate is confidential and will not be shared with anyone without your consent.
### EMERGENCY, LAW ENFORCEMENT, & MEDICAL RESOURCES

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<th>Phone Numbers</th>
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<tr>
<td><strong>Emergency:</strong></td>
<td>911</td>
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<tr>
<td>Greenville Police Dept.</td>
<td>(252) 329 - 4315</td>
<td>500 S. Greene St.</td>
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<td>Information Desk</td>
<td>(252) 329 - 4317</td>
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<tr>
<td>Pitt County Sheriff’s</td>
<td><strong>Office Hours M - F, 8:00 - 5:00</strong></td>
<td>100 W. 3rd St.</td>
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<td>(252) 902 - 2800</td>
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<td></td>
<td>24 hour dispatch</td>
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<td></td>
<td>(252) 830 - 4141</td>
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<tr>
<td>*Vidant Medical Center:</td>
<td><strong>Information</strong></td>
<td>2100 Stantonburg Rd.</td>
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<td>(252) 847 - 0000</td>
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<td>Emergency Department</td>
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<td>(252) 847 - 0279</td>
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<tr>
<td></td>
<td>Minor Emergency Department</td>
<td>(252) 847 - 0191</td>
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<td>ECU Police Department:</td>
<td>Emergency</td>
<td>Blount House</td>
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<td></td>
<td>(252) 328 - 6787</td>
<td>609 E. Tenth St.</td>
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<td>(252) 328 - 0062</td>
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<td></td>
<td>West Campus Hotline</td>
<td>(252) 744 - 5080</td>
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### UNIVERSITY

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<td>(252) 744 - 0000</td>
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<td>Dean of Students Office:</td>
<td><strong>Information</strong></td>
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<td></td>
<td>(252) 328 - 9297</td>
<td>362 Wright Building</td>
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<td></td>
<td>East Campus Hotline</td>
<td>(252) 737 - 5555</td>
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<td></td>
<td>(252) 744 - 5080</td>
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<tr>
<td>ECU CARES:</td>
<td>LaKesha Alston Forbes</td>
<td>(252) 328 - 6804</td>
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<tr>
<td></td>
<td>24 hour Nurse Assistance line</td>
<td>Student Health Services Building</td>
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<tr>
<td></td>
<td>(252) 328 - 6841</td>
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<tr>
<td>*Student Health Services:</td>
<td><strong>Information</strong></td>
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<td></td>
<td>(252) 328 - 6841</td>
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### COUNSELING & VICTIM ADVOCACY RESOURCES

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<tr>
<td>*Center for Counseling and Student Development</td>
<td>(252) 328 - 6661</td>
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<tr>
<td>*Victim Advocate (in cases of sexual trauma)</td>
<td>(252) 737 - 1466</td>
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### COMMUNITY RESOURCES

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

Experiencing an assault, whether sexual or physical, is one of the most traumatic incidents that someone can go through. Trauma response is a natural process in our brains and bodies that occurs during and after an event that we are unequipped to handle. Experiencing trauma responses does NOT mean that you are weak. It is also important to note that although feeling guilt is normal, no one deserves to be assaulted.

The severity of trauma responses differs from person to person. Right now, you are probably experiencing a wide array of emotions that can seem confusing, or frightening. You may feel hopeless. You may be feeling alone with your thoughts and unsure how to move forward. Although there is no “right way” to respond to an assault, there are some common reactions when an assault occurs.

You may be experiencing one or more of the following:

- Anxiety
- Depression
- Numbness
- Guilt and/or Shame
- Fear/Hypervigilance
- Eating and/or Sleep Disorders
- Suicidal Ideation
- Trust Issues
- Sexual Dysfunction
- Memory Loss/Dissociation
- Difficulty Concentrating
- Flashbacks
- Social Withdrawal
- Extreme Anger
- Low Self Esteem

Whatever you’re feeling, you are not “weird” or wrong, and you are NOT alone. Dealing with traumatic experiences is difficult, but many victims of assault are able to recover by talking to a professional about their experiences.

Counseling is available free of charge to ECU students through the Center for Counseling and Student Development (252.328.6661) and, in the case of sexual trauma, through the Victim Advocate (252.737.1466). Anything discussed with a counselor or the Victim Advocate is confidential and will not be shared with anyone without your consent.

To learn more about trauma, visit: [http://www.helpguide.org/articles/ptsd-trauma/emotional-and-psychological-trauma.html](http://www.helpguide.org/articles/ptsd-trauma/emotional-and-psychological-trauma.html)

B. Reporting Guide

1. Reporting to Police
   a. Law Enforcement Agencies Information
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)

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.

You have the right to notify law enforcement and to be assisted by university officials in doing so. It is your right to decide whether or not to involve law enforcement. Declining the involvement of law enforcement does not prevent you from receiving assistance from the University. You also have the right to use the University’s procedures in addition to or independent of filing a criminal complaint.

**b. Preservation of Evidence**

It is important that you take steps to preserve and collect evidence; doing so preserves the full range of options available to you, be it through the University’s disciplinary proceedings or criminal prosecution. To preserve evidence:

1. do not wash your face or hands;
2. do not shower or bathe;
3. do not brush your teeth;
4. do not change clothes;
5. do not straighten up the area where the assault took place;
6. do not dispose of clothes or other items that were present during the assault, or use the restroom; and
7. seek a medical exam immediately.

Even if you already cleaned up from the assault, you can still report the crime as well as seek medical attention or counseling treatment. Even if you have already done any of these things, you should still seek medical attention and/or counseling.

**c. Seeking a Protective Order**
Where Prohibited Conduct is reported to the Police, it may be possible to obtain a restraining order or protective order. In North Carolina, there are domestic violence protective orders and civil no-contact orders. A “protective order” is also called a 50B order after the statute that provides for it. It is also sometimes called a Domestic Violence Protective Order or DVPO. For more assistance in seeking a protective order, please contact or visit the Victim Advocate at 737-1466 or the ECU Police Department.

2. Reporting to University

The University strongly encourages students who have experience, have knowledge of, or have witnessed Prohibited Conduct to make a report so that the University can assist you and take measures to address the behavior. When the University receives a report, accommodations and protective measures are provided 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.

Individuals can report incidents of Prohibited Conduct to the University through the following reporting options:

- 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
- 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.

a. University Good Samaritan Regulation

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.
b. Accommodations

The University recognizes the importance of preserving the integrity of the academic environment and offers accommodations/interim measures. The measures offered are dependent upon what the situation warrants and can include but are not limited to counseling services, health services, academic accommodations, safety planning, and others. The Dean of Students office will work with you in implementing these measures and will take into consideration your preferences when doing so. If you have further questions about accommodation/interim measures offered, please contact the Dean of Students office at (252) 328-9297.

c. Retaliation Policy

It is against the Student Code of Conduct as well as 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.

d. Reporting Timeframe

Any individual may file a complaint regarding sexual assault, domestic violence, dating violence, or stalking at any time. Early reporting is encouraged to preserve evidence and provide you with information regarding your rights, options, and resources available from East Carolina University and provided by state/federal laws.

C. Investigation

1. Investigation 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 Student Rights and Responsibilities will notify both parties of whether conduct charges will be pursued.

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. The investigator does not make sanctioning decisions or recommendations. The investigator does provide both parties with receive notification regarding the investigation outcome. The investigator writes a comprehensive report, detailing the investigation and the evidence found and explaining the reasons for whether there is a finding or not. This report is provided to the Director of Office for Student Rights and Responsibilities. If there is a finding of a policy violation, the Director will determine whether charges will be pursued under the Student Code of Conduct. These charges can result in sanctions that range from educational tasks and counseling to probation, suspension and expulsion.

3. Support Person

The Student Code of Conduct provides that individuals charged with violations of the Code 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, however each party is limited to one person as an advisor.

II. Disciplinary Procedure

A. Introduction

You have the right to notify law enforcement and to be assisted by university officials in doing so. It is your right to decide whether or not to involve law enforcement. Declining the involvement of law enforcement does not prevent you from receiving assistance from the University. You also have the right to use the University’s procedures in addition to or independent of filing a criminal complaint.

A student charged with Prohibited Conduct may be prosecuted through the criminal court system and disciplined separately through the ECU Student Code of Conduct process. Even if the court system chooses not to prosecute, the accused student may be subject to the University’s disciplinary process. The ECU student code of conduct (“The Code”) functions independent of the criminal justice system. At the student’s expense, s/he may be represented by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1. The student conduct disciplinary process
may precede, occur simultaneously, or follow court action. In the event the student conduct disciplinary process follows court action, the court proceedings and/or verdict may be considered in the student conduct and due process proceeding. These proceedings are conducted by officials trained on all forms of Prohibited Conduct.

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, no-contact ban or removal from classes, 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 academic and extracurricular activities your living, transportation, dining, and working situation as appropriate. Both parties 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

Any student found by the Office of Student Rights and Responsibilities (OSRR) to have committed Prohibited Conduct may be subject to severe disciplinary sanctions, including suspension (a specified period of separation from enrollment at the University) or expulsion (permanent separation from enrollment at the University and at any other member institution of the University of North Carolina). For information regarding the range of possible sanctions that may be imposed following an institutional disciplinary procedure, please refer to the ECU Student Code of Conduct.

OSRR recognizes that violations of Prohibited Conduct are not the fault of the individual filing the complaint. OSRR encourages the report of Prohibited Conduct and therefore does not intend to hold complainants accountable for other student code of conduct violations that may have occurred along with violations of Prohibited Conduct.

The University does not tolerate retaliation against individuals who file a complaint. Students who retaliate will be held accountable under the Code.

C. Student Conduct Hearing Procedures (for cases specific to Prohibited Conduct)

Upon receipt of the findings from a Prohibited Conduct investigation, the OSRR Director or designee will review the report to determine whether or not the reported behavior is governed by the Code. If the behavior is governed by the Code, a case will be created and assigned to a hearing officer, independent of the investigation.

The hearing officer will submit notification to both the respondent and you announcing whether or not official charges are to be pursued. In cases where a potential outcome, if found responsible, is suspension or expulsion the case is referred to a Conduct Board unless the respondent and complainant agree to hearing with a conduct administrator. In
cases were a potential outcome, if found responsible, is less than suspension the case will be addressed by a conduct administrator.

In the case you wish to participate you may request accommodations be made during the hearing procedures, such as special seating arrangements in the hearing room, or attending telephonically, in order to conduct a fair, orderly hearing.

- You have the right to an objective and impartial evaluation of the complaint.
- You have the right to present information relevant to the alleged violation, including inviting witnesses.
- You have the right to submit a written impact statement.
- You have the right, after receiving written notice of the outcome, to review the decision, including if permitted under ECU policies and local, state, and federal law.
- You have the right to be informed of pertinent University-based support services and to be presented with an option of reporting the incident to law enforcement, if appropriate.
- You are entitled to the rights of the respondent enumerated in section 4.1.1 of the student code conduct, such as the right to an observer/support person at the hearing; to have the same access to the proceedings as the Respondent, including the ability to question witnesses; to be free of irrelevant questions about sexual history; and to appeal a decision based on grounds described in section 5.5. In cases where the Respondent has an attorney present, you also may have an attorney, at your own expense, present.

D. Appeals

Both parties will be notified of the final outcome, which will include appeal information. Both parties will be notified if an appeal is submitted to the Office of Student Rights and Responsibilities and either party can appeal the outcome based on the grounds outlined in the Student Code of Conduct. In addition each party will have an opportunity to respond to any additions/arguments of the other. In appeals from a hearing with the conduct administrator, the Director of OSRR or designee will review the written record and make a determination as to whether a decision should be altered. This decision is final. In appeals from a hearing before the Conduct Board where suspension is assigned, the Director of OSRR will compile the written record and provide it to the Vice Chancellor for Student Affairs or designee who will make the final determination. In appeals from a hearing before the Conduct Board where expulsion is assigned, the Director of OSRR will compile the written record and provide it to the Vice Chancellor for Student Affairs who will make the final determination. If the Vice Chancellor determines that the Respondent should be expelled from the University, the Respondent has the right to file an appeal with the Board of Trustees. If the Board of Trustees determines that the Respondent should be expelled from the University, the Respondent has the right to file an appeal with the Board of Governors.
III. 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 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 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;
- Prostituting 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 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.

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.