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

Table of Contents

1. Introduction ........................................................................................................................................... 1
2. Reporting ................................................................................................................................... 1
3. Expectations of Complainants and Respondents .............................................................. 2
4. Initial Assessment ................................................................................................................................. 3
  4.1 Sexual Misconduct Response Team ............................................................................................ 3
5. Health and Safety Threat Assessment ...........................................................................5
  5.1 University Actions Following Health and Safety Threat Assessment ................................. 6
     5.1.1 Where the Complainant Wishes to Pursue Formal Resolution ............................................ 6
     5.1.2 Where the Complainant Requests Anonymity, and/or that an Investigation not be Pursued 6
5.2 Notice to Complainant and Respondent of University Actions ............................................. 7
6. University Resolution ....................................................................................................................... 8
  6.1. Alternative Resolution ................................................................................................................. 8
6.2 Formal Resolution ........................................................................................................................... 9
  6.2.1 Investigation ........................................................................................................................... 9
  6.2.2 Acceptance of Responsibility ............................................................................................ 14
  6.2.3 Student Conduct Board Hearing ....................................................................................... 14
6.2.4 Sanctioning............................................................................................................................ 17

6.2.5 Appeal of Sanctions............................................................................................................. 20

7. Extension of Timelines for Good Cause............................................................................... 22

8. Vice Chancellor for Student Affairs Substitution.............................................................. 22

9. Records Retention ............................................................................................................... 22
1. Introduction

1.1 East Carolina (the “University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. 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 related Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in the University’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (the “Regulation”). This Appendix identifies the procedures (the “Procedures”) the University follows when it receives a report alleging Prohibited Conduct by a Student. The University uses these Procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against Students found responsible for violating the Regulation.¹

1.2 Please see Appendix B for Procedures the University follows when it receives a report alleging Prohibited Conduct by an Employee, including faculty, staff, and administrators. Please see Appendix C for addressing reports alleging Prohibited Conduct by an individual who is not a student or employee.

2. Reporting

2.1 The University encourages anyone² who experiences Prohibited Conduct and requires Responsible Employees who become aware of an incident of Prohibited Conduct involving an Employee or student to immediately report the incident to the University through any of the following reporting options:

2.1.1 By contacting the University’s Title IX Coordinator, by telephone, email, or in person during regular office hours:
LaKesha Alston Forbes, Title IX Coordinator
Office for Equity and Diversity
Old Cafeteria Building Suite G-406
Phone: (252) 328-6804
Email: oed@ecu.edu;

2.1.2 By filing an online complaint form with the Office of Equity and Diversity at http://www.ecu.edu/oed/grievance-form.cfm;

2.1.3 By filing an online complaint form with the Office of Student Rights and Responsibilities (“OSRR”) at https://publicdocs.maxient.com/incidentreport.php?EastCarolinaUniv;

2.1.4 Through ECU Cares, the University’s reporting mechanism, at www.ecu.edu/ecucares or (252) 737-5555 and press #3. Anonymous reporting is

¹ These Procedures should be read in conjunction with the Regulation. Capitalized terms used and not otherwise defined in these Procedures are defined in the Regulation. For purposes of these Procedures, the following definitions apply: (1) the “Title IX Coordinator” means the Title IX Coordinator, Senior Deputy Title IX Coordinator, and/or any of their respective trained designees; and (2) “Human Resources” means University Human Resources, and/or the Human Resources professional in a particular school/department/unit.

² Pursuant to University policy, certain University employees, called “Responsible Employees,” are required to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See “Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct.”
permissible.

2.2 An SHRA employee may also choose to file any complaints of Sexual and Gender based Harassment, Sexual Assault, Sexual Exploitation and related retaliation in accordance with ECU’s Mediation and Grievance Procedure for SHRA Employees (Regulation 06.35.02), as outlined in Section VI below.

2.3 A Complainant, as defined in the Regulation, may choose to make a report to the University to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the Regulation, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:

- 2.3.1 911 (for emergencies);
- 2.3.2 ECU Police Department ((252) 328-6787) (for non-emergencies);
- 2.3.3 Greenville Police Department ((252) 329-4315) (for non-emergencies); or
- 2.3.4 Pitt County Sheriff’s Office ((252) 902-2800)(for non-emergencies).

2.4 The University also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. The following guides identify confidential resources, both at the University and in the Greenville community, and further explain options for reporting Prohibited Conduct to the University and to law enforcement:

- 2.4.1 Students may refer to the Resource and Reporting Guide for Student Reporting Incidents of Prohibited Conduct and the Resource and Reporting Guide for Students Accused of Incidents of Prohibited Conduct (Appendixes A-1 and A-2);
- 2.4.2 Employees may refer to the Resource and Reporting Guide for Employees Reporting Incidents of Prohibited Conduct and Resource and Reporting Guide for Employees Accused of Incidents of Prohibited Conduct (Appendix B-1 and B-2);
- 2.4.3 Third Parties may contact the University’s Title IX Coordinator.

2.5 Complainants are entitled to receive information, assistance and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or University resolution of Prohibited Conduct. The Student and Employee Resource Guides outline these resources and remedial measures and describe how to request them.

3. Expectations of Complainants and Respondents

3.1 Pursuant to these Procedures, Complainants and Respondents can expect:

- 3.1.1 Equitable resolution of allegations of Prohibited Conduct as promptly as possible;
- 3.1.2 Privacy in accordance with the Regulation and any legal requirements;
- 3.1.3 Reasonably available interim remedial and protective measures, as described in these Procedures and in the applicable Resource Guide;
3.1.4 Freedom from Retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under the Regulation;

3.1.5 The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under the Regulation;

3.1.6 The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Regulation or these Procedures;

3.1.7 The opportunity to articulate concerns or issues about proceedings under the Regulation and these Procedures;

3.1.8 Timely notice of any meeting or proceeding at which the party’s presence is contemplated by these Procedures;

3.1.9 The right to be represented, at the party’s expense by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1.1[R];

3.1.10 Written notice of an investigation, including notice of potential Regulation violations and the nature of the alleged Prohibited Conduct;

3.1.11 The opportunity to challenge the Investigator or any member of the Student Conduct Board for bias or conflict of interest;

3.1.12 The opportunity to offer relevant information, present relevant evidence, and identify witnesses during an investigation;

3.1.13 The opportunity to be heard, orally and/or in writing, as to the determination of a Regulation violation and the imposition of any sanction(s);

3.1.14 Timely and equal access, as permitted by applicable law, to any information that will be used during Alternative Resolution or Formal Resolution proceedings and related meetings;

3.1.15 Reasonable time to prepare any response contemplated by these Procedures;

3.1.16 Written notice of any extension of timeframes for good cause;

3.1.17 Written notice, as permitted and/or required by applicable law, of the outcome of any Formal Resolution proceedings, including the determination of a Policy violation, imposition of any sanction(s), and the rationale for each. The Complainant will only receive information regarding the imposition of any sanction(s) as it relates to the Complainant; and

3.1.18 To receive written notice of appeal rights.

4. Initial Assessment

Upon receipt of a report of Prohibited Conduct committed by a Student, the Sexual Misconduct Response Team (“SMRT”) will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report.

4.1 Sexual Misconduct Response Team
4.1.1 SMRT will evaluate every report of Prohibited Conduct. The SMRT convenes (in person, by telephone, or by videoconference) weekly or as needed to review information received from a report of Prohibited Conduct by a student, as described above, and to review new information as it becomes available. The SMRT may include select members of the University Behavioral Concerns Team (“UBCT”) and shall include, at a minimum: (1) the Title IX Coordinator or his/her designee, (2) the assigned investigator (3) a representative of the ECU Police Department (the “ECUPD Representative”), and (4) a representative from the Dean of Student’s Office. In addition, the SMRT may include a representative from Campus Living, the Counseling Center or the Victim Advocate, depending on the circumstances of the reported incident and the status of the Complainant and the Respondent.

4.1.2 The SMRT has access to available University records, which may otherwise be confidential, including University disciplinary, academic and/or personnel records. The SMRT may seek additional information about the reported incident through any other legally permissible means.

4.1.3 In this initial assessment, the SMRT will:

4.1.3.1 Assess the Complainant’s safety and well-being and offer the University’s immediate support and assistance;
4.1.3.2 Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
4.1.3.3 Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
4.1.3.4 Inform the Complainant about University and community resources, the right to seek appropriate and available remedial and interim protective measures, and how to request those resources and measures;
4.1.3.5 Ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options;
4.1.3.6 Inform the Complainant of the right to seek Alternative or Formal Resolution under these Procedures; ascertain the Complainant’s expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Alternative Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any University investigation and resolution under these Procedures;
4.1.3.7 Explain the University’s prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;
4.1.3.8 Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
4.1.3.9 Ascertain the ages of the Complainant and the Respondent, if known, and, if
either of the parties is a minor (under 18), contact the appropriate child protective service agency; and

4.1.3.10 Communicate with appropriate University officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

4.1.4 When the Dean of Students Office and/or the Vice Chancellor with supervisory responsibilities in consultation with the Title IX Coordinator decides to implement interim protective measures, to initiate an investigation or to take any other action under these Procedures that impacts a Respondent (including the imposition of interim protective measures), the Director of OSRR will ensure that the Respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options with appropriate ECU officials.

4.1.5 If the Complainant requests or SMRT decides to initiate an investigation, the Respondent will receive written notice of an investigation and formal charge against the Respondent in accordance with Section VI.B.1.a. The notice will specify the offense(s) charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses which could result in expulsion, the notice must also include this possibility and explain that expulsion precludes matriculation at any UNC constituent institution.

5. Health and Safety Threat Assessment

Following or simultaneously with the initial assessment, the SMRT in collaboration with the UBCT Review will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the Complainant or to any other member of the University community. The SMRT will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors (the “Risk Factors”):

- Whether the Respondent has prior relevant arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any University No-Contact Directive, other University protective measures, and/or any judicial protective order;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the Prohibited Conduct involved physical violence. “Physical violence” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, pushing, and brandishing or using any weapon;
- Whether the report reveals a pattern of Prohibited Conduct (e.g., by the
Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);

- Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring;
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

5.1 University Actions Following Health and Safety Threat Assessment

Upon completion of the health and safety threat assessment, OSRR, in consultation with SMRT, will determine the course of action under these Procedures, which may include, without limitation, Formal Resolution and/or Alternative Resolution (if available). Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, OSRR, in consultation with SMRT, will seek to honor the preferences of the Complainant wherever possible. In all cases, the initial report, the health and safety threat assessment, and the determinations of the SMRT will be documented and retained by the University in accordance with applicable law.

5.1.1 Where the Complainant Wishes to Pursue Formal Resolution. In every case in which a Complainant reports Prohibited Conduct and requests an investigation OSRR will promptly initiate Formal Resolution, outlined below.

5.1.2 Where the Complainant Requests Anonymity, and/or that an Investigation not be Pursued. A Complainant may request that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued. OSRR will explain to the Complainant that University’s ability to meaningfully investigate and respond to a report may be limited, and that the University may not be able to honor such a request and still provide a safe and nondiscriminatory environment for all students and employees.

The SMRT will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any Risk Factors, as described in Section V of these Procedures; (3) the potential impact of such action(s) on the Complainant; (4) any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct; (5) the existence of any independent information or evidence regarding the Prohibited Conduct; and (6) any other available and relevant information. The University will seek to honor the Complainant’s request(s) if it is possible to do so while also addressing the health and safety of the Complainant and the University community.

5.1.2.1 Determination that a Complainant’s Request(s) Can be Honored.
Where OSRR determines that a Complainant’s request(s) (that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued) can be honored, the University may nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances as a form of Alternative Resolution.

At any point, the Complainant may choose to pursue Alternative Resolution (if available) or Formal Resolution under these Procedures. The Director of OSRR also may request that a report be re-opened and pursued under these Procedures if any new or additional relevant information becomes available.

5.1.2.2 Determination that a Complainant’s Request(s) Cannot be Honored.
Where the OSRR has determined that a Complainant’s request(s) (that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued) cannot be honored (i.e., because honoring the Complainant’s request(s) would impede the University’s ability to ensure the health and safety of the Complainant and other members of the University community), the SMRT will take any appropriate University actions, which may include, without limitation, (i) causing OSRR or the Dean of Students Office, to impose a No-Contact Directive and/or; (ii) initiating an investigation and Formal Resolution under these Procedures; (iii) arranging, imposing, or extending any other appropriate remedial and/or protective measures; and/or (iv) imposing administrative suspension pending investigation of the Prohibited Conduct.

Where the SMRT has determined that the University must proceed with an investigation despite a Complainant’s request to the contrary, the University will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of the University’s investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant’s identity may have to be disclosed. In such cases, the Director of OSRR will notify the Complainant that the University intends to proceed with an investigation, and that the Complainant is encouraged but not required to participate in the investigation or in any other actions undertaken by the University.

Where a Complainant declines to participate in an investigation, the University’s ability to meaningfully investigate and respond to a report may be limited. In such cases, the Director of OSRR may pursue the investigation if it is possible to do so without the Complainant’s participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct). In the absence of such other evidence, however, the University will only be able to respond to the report in limited
and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

5.2 Notice to Complainant and Respondent of University Actions

The assigned investigator will promptly inform the Complainant of any action(s) undertaken by the University to respond to a health or safety threat to the Complainant or the University community, including the decision to proceed with an investigation. The assigned investigator also will promptly inform the Respondent of any action(s) (including any interim protective measures) that will directly impact the Respondent, and provide an opportunity for the Respondent to respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect through resolution of the report by the appropriate University executive, unless new circumstances arise which warrant reconsideration of the protective measures prior to a Student Conduct Board Hearing.

6. University Resolution

These Procedures offer two forms of resolution of reports of Prohibited Conduct against a student: (1) Alternative Resolution (as described in Section VI.A of these Procedures), which includes a variety of informal options for resolving reports, and (2) Formal Resolution, which involves an investigation and findings of responsibility (if any), Student Conduct Board Hearing to determine sanction (if applicable) and/or hear an appeal of findings, and a possible appeals to the Vice Chancellor for Student Affairs, the ECU Board of Trustees and the UNC Board of Governors (as described in Section VI.B of these Procedures).

An SHRA employee may choose to file any complaints of Sexual and Gender based Harassment, Sexual Assault, Sexual Exploitation and related retaliation in accordance with ECU’s Mediation and Grievance Procedure for SHRA Employees (Regulation 06.35.02). In the event the complaint is filed within fifteen (15) business days after the incident covered by Regulation 06.35.02 and the SHRA employee wishes to retain their appeal rights under Regulation 06.35.02, the SHRA employee may pursue remedies provided in Regulation 06.35.02 in addition to these procedures. Regulation 06.35.02 does not cover Intimate Partner Violence, Stalking, Dating or Domestic Violence, Complicity and related Retaliation.

Any complaints of Prohibited Conduct brought by a SHRA employee not covered by Regulation 06.35.02 or not filed within 15 business days of the incident will be processed solely according to these Procedures.

At any time, a complaint may be filed with the U.S. Equal Employment Opportunity Commission (http://www.eeoc.gov), U.S. Department of Education’s Office of Civil Rights (http://www2.ed.gov/about/offices/list/ocr/index.html), or the North Carolina Civil Rights Division of the Office of Administrative Hearings (http://www.oah.state.nc.us/civil) as applicable.

6.1 Alternative Resolutions
The Complainant may seek Alternative Resolution in place of an investigation and Formal Resolution, if the Director of OSRR, in consultation with the Title IX Coordinator, approves. The University, through the Director of OSRR and the Title IX Coordinator, has the discretion to determine the nature of the reported conduct is not appropriate for Alternative Resolution, to limit the type of Alternative Resolution that may be appropriate in a specific case and, pursuant to Section V.C of these Procedures, to refer a report for Formal Resolution at any time. In addition, Alternative Resolution may not be available where the SMRT has determined that one or more of the Risk Factors listed in Section V.B.1 of these Procedures is present. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available in cases involving Sexual Assault, Sexual Harassment where the there is a power differential between the Complainant and Respondent, and related Retaliation. Contact the Title IX Coordinator for information about potential Alternative Resolution options in a particular case.** The Director of OSRR will maintain information about Alternative Resolution availability and provide that information to any party to a complaint upon request.

6.1.1 If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. If an agreement is not reached, and the Director of OSRR determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these Procedures.

6.1.2 The Director of OSRR will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within thirty (30) business days.

6.2 Formal Resolution

Formal Resolution is commenced when:

- A Complainant reports that a Student has engaged in one or more instances of Prohibited Conduct and requests an investigation, either at the time of the report or at some time thereafter; or
- Attempts at Alternative Resolution fail or do not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator’s discretion, an investigation of the report of Prohibited Conduct is required; or
- At the conclusion of the threat assessment process described in Section V of these Procedures, the SMRT has determined, based upon a review of the totality of the circumstances and guided by a consideration of the Risk Factors, that investigation of the reported Prohibited Conduct is necessary to ensure the health and safety of the Complainant and/or other members of the University community, notwithstanding the Complainant’s request that personally-identifying information not be shared with the Respondent, and/or that no investigation be pursued.

6.2.1 Investigation. Whenever Formal Resolution is commenced, the Director of OSRR will designate one or more Investigators from the Office of Student Rights and Responsibilities, the University’s Office for Equity and Diversity and/or an experienced external investigator to conduct a prompt, thorough, fair, and impartial investigation. All
Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants and the University community while promoting accountability.

6.2.1.1 Notice of Investigation. The assigned investigator will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify potential Policy violation(s); (4) identify the Investigator; (5) include information about what the parties can expect under the Policy and these Procedures; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; and (9) provide a copy of the Policy and these Procedures. The notice to the Respondent shall serve as notice of a formal charge and also specify the offense(s) charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses which could result in expulsion, the notice must also explain this possibility and that expulsion precludes matriculation at any UNC constituent institution.

6.2.1.2 Other Forms of Discriminatory and/or Harassing Conduct. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the University’s Notice of Nondiscrimination and Affirmative Action policy, the Director of OSRR, in consultation with the Title IX Coordinator, will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged Notice of Nondiscrimination and Affirmative Action policy and/or Regulation on Responding to Complaints of Prohibited Discrimination, Harassment and/or Related Retaliation (“PDHR Regulation”)violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the applicable policy (i.e., the Notice of Nondiscrimination and Affirmative Action policy and/or the PDHR Regulation), but the investigation and resolution will be conducted in accordance with these Procedures.

6.2.1.3 Other Student Code of Conduct Violations. If a report of Prohibited Conduct also implicates other violations of the Student Code of Conduct, the assigned OSRR investigator will provide notice of those charges to the Respondent and/or Complainant along with notice of investigation of Prohibited Conduct. Respondents will be notified immediately of any additional charges based on any new reports of Prohibited Conduct and/or Student Code of Conduct violations made during the course of the investigation after the notice of investigation has been issued.
Where OSRR determines a single investigation of the additional Student Code of Conduct charges is appropriate, the determination of responsibility for those violations will be evaluated under the Student Code of Conduct but the investigation and resolution will be conducted in accordance with these Procedures.

6.2.1.4 Presumption of Non-Responsibility and Participation by the Parties. The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Investigator and/or Review Panel conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Regulation. All witness(es) are strongly encouraged to participate in an investigation. Employees may be required to participate, to the extent allowed by law.

6.2.1.5 Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather, consistent with applicable policy and law, other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).

6.2.1.6 Advisors. Throughout the investigation and resolution process, each party has the right to be represented, at the party’s expense by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1[R]. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The University reserves the right to remove any individual whose actions are disruptive to the proceedings.

6.2.1.7 Prior or Subsequent Conduct. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the Notice of Nondiscrimination and Affirmative Action policy and/or other University policy, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed,
to the extent allowed by law, if evidence of prior or subsequent conduct is deemed relevant as permitted or required by applicable law.

6.2.1.8 Prior Sexual History. The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Consent, as defined in the regulation, is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Consent was sought and given during the incident in question. However, even in the context of a relationship, Consent to one sexual act does not, by itself, constitute Consent to another sexual act, and Consent on one occasion does not, by itself, constitute Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the complaint. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant as permitted or required by applicable law.

6.2.1.9 Relevance. The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party’s general reputation for any character trait.

6.2.1.10 Site Visit(s). The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

6.2.1.11 Expert Consultation(s). The Investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

6.2.1.12 Coordination with Law Enforcement. The Investigator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the written request of law enforcement, the Investigator may delay the University investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.
6.2.1.13 **Final Investigation Report and Finding(s) of Responsibility.** The Investigator will prepare a Final Investigation Report, which will include findings as to whether there is sufficient evidence, by a Preponderance of the Evidence, of a violation of the Regulation (and, where applicable, the Notice of Nondiscrimination and Affirmative Action policy and/or other Student Code of Conduct violation). In reaching this finding, the Investigator will consult with the Office of University Counsel. The Investigator will notify both parties, simultaneously, in a Notice of Findings and provide a copy to the Director of OSRR and submit the Final Investigation Report to the Student Conduct Board.

6.2.1.14 **Finding(s) of Responsibility.** When the Investigator determines that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Respondent may accept or contest such finding(s) by so notifying the Director of OSRR in writing within five (5) business days of the issuance of the Notice of Findings (Section VI.B.1.n). If the Respondent accepts the finding(s) of responsibility, the Director of OSRR will refer the case to the appropriate Student Conduct Board solely on the issue of sanction, as outlined in Section VI.B.4(a) of these Procedures. If the Respondent contests one or more of the finding(s), the Respondent may submit to the Director of OSRR a written statement within five (5) business days of the issuance of the Notice of Findings (Section VI.B.1.n) explaining why the Respondent contests such finding(s). The Director of OSRR will ensure that the Complainant has an opportunity to review and respond in writing to any such statement within a reasonable timeframe not to exceed five (5) business days. The Director of OSRR will provide the Final Investigation Report, together with any statements by the parties, to the Student Conduct Board for further proceedings as outlined in Section VI.B.3 of these Procedures.

6.2.1.15 **Finding(s) of No Responsibility.** When the Investigator determines that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Complainant may accept or contest the finding(s) by so notifying the Director of OSRR in writing within five (5) business days of the issuance of the Notice of Findings (Section VI.B.1.n). If the Complainant accepts the finding(s) of no responsibility, the investigation will be closed and documented in accordance with applicable University policies. If the Complainant contests one or more of the finding(s), the Complainant may submit to the Director of OSRR a written statement within five (5) business days of the issuance of the Notice of Findings (Section VI.B.1.n) explaining why the Complainant contests such finding(s). The Director of OSRR will ensure that the Respondent has an opportunity to review and respond in writing to any such statement within a reasonable timeframe not to exceed five (5) business days. The Director of OSRR will provide the Final Investigation Report, together with any statements by the parties, to the Student Conduct Board for further proceedings as outlined in Section VI.B.3 of these Procedures.
6.2.1.16 **Impact and Mitigation Statements.** Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to the Director of OSRR for consideration by the Student Conduct Board in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Director of OSRR will ensure that each of the parties has an opportunity to review any statement submitted by the other party. The Director of OSRR will provide any statement(s) with the Final Investigation Report and the parties’ other written submissions to the Student Conduct Board.

6.2.1.17 **Timing of Investigation.** The investigation typically will be completed within thirty-five (35) business days from the issuance of the Notice of Investigation. Cooperation of the parties in the investigation may have a direct impact on the timeframe for the completion of an investigation. This timeframe may be extended for good cause, as provided in Section VII below. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension. Any extension and the reason for the extension, will be shared with the parties in writing. The Investigator will contact the Complainant and Respondent with a status update of the investigation approximately thirty-five (35) business days from the issuance of the Notice of Investigation (Section VI.B.1.a.). If the investigation extends beyond sixty (60) calendar days, the Complainant and Respondent will be provided a status update at sixty (60) calendar days and then at every thirty (30) calendar day interval thereafter.

6.2.2 **Acceptance of Responsibility.** The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct, in which case the Director of OSRR will refer the matter to the Student Conduct Board for imposition of sanction(s). The Complainant will be notified and both parties will be given an opportunity to provide Mitigation/Impact Statements as described in VI.B.1(p). The Respondent’s acceptance of responsibility must be written and signed by Respondent, voluntary and supported by facts confirmed during the initial assessment or investigation.

6.2.3 **Student Conduct Board Hearing.** The Title IX Coordinator will appoint a standing pool of trained members of the University community, including CSS, SHRA, EHRA and EHRA faculty employees and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Prohibited Conduct. The Title IX Coordinator will appoint EHRA faculty members from nominees presented by Faculty Senate. The Director of OSRR will select three members from this pool to serve on the Student Conduct Board, one of which will serve as the Hearing Chair. The Student Conduct Board will review the Investigator’s finding(s). All persons serving on any Student Conduct Board (or as the Hearing Chair) must be impartial and free from actual bias and conflict of interest.
Either party may challenge the participation of any Student Conduct Board member and such members may be removed at the discretion of the Director of OSRR or his/her designee in the event he/she believes that the Student Conduct Board member cannot be impartial, when a conflict of interest becomes known and the Student Conduct Board member has not recused himself/herself, and/or when it is clear that the Student Conduct Board Member is unable or unwilling to appropriately apply the provisions of the Regulation and these Procedures.

6.2.3.1 Standard of Review. If either of the parties contests the Investigator’s finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, the Student Conduct Board will hold a hearing to determine (1) whether the concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator’s finding(s) by a Preponderance of the Evidence.

6.2.3.2 Notice and Timing of Hearing. Typically, a hearing will be held within approximately ten (10) business days from the date of the Investigator’s Notice of Findings. The Student Conduct Board will notify the parties in writing of the date, time, and location of the hearing; the names of the Student Conduct Board members and the Hearing Chair; and how to challenge participation by any member of the Student Conduct Board or the Hearing Chair for bias or conflict of interest. The hearing will not be scheduled less than five (5) business days from the date of the Notice of Hearing. The Hearing Chair may grant a request for an extension if it is for good cause and requested prior to the hearing. Good cause for extension may include the unavailability of the parties, the timing of semester breaks or University holidays, or other extenuating circumstances. Any extension, including the reason for the extension, will be shared with the parties in writing by the Hearing Chair. Prior to the hearing, both parties will be given an opportunity to review the written evidence that will be used at the hearing and a list of witnesses.

6.2.3.3 Hearing Format. The hearing is an opportunity for the parties to address the Student Conduct Board, in person, about issues relevant to the Standard of Review to be applied by the Student Conduct Board. The parties may address any information related to the investigation, supplemental statements submitted in response to the Investigation, and any impact and mitigation statements if the Hearing enters the sanction phase. Each party has the opportunity to be heard, to identify witnesses for the Student Conduct Board’s consideration, and to respond to any questions of the Student Conduct Board. The parties may not directly question each another or any witness, although they may proffer questions to the Chair to pose to the Investigator, the parties, and/or any witnesses. Upon receipt of proffered questions, the Chair will determine whether each question is relevant to the matter(s) at issue, is impermissible in the proceeding in accordance with this and other relevant ECU policies, or is unnecessarily duplicative. This determination is left solely to the Chair. The Chair will strive to pose each relevant question exactly as written by the party that proposed it When the Student Conduct Board amends or declines to ask a question, it shall make a good faith effort to revise or develop a new question that seeks the information the proffering party is seeking, to the extent such information is eligible to be considered in the hearing. The party posing the question will be afforded an opportunity for
follow-up questions subject to the relevancy review conducted by the Chair. A typical hearing will begin with a Student Case Presenter outlining the basic facts of the case gathered by the University followed by an opportunity for the Complainant and/or Respondent to address the Student Conduct Board and present documentary evidence. Next, the Student Conduct Board will hear from witnesses it deems relevant, with follow-up questions by the Student Conduct Board of the Investigator or witnesses. The Student Conduct Board may allow brief concluding remarks by the Complainant and/or Respondent. The Hearing Chair has the discretion to determine the specific Hearing format to the extent adjustments are necessary to ensure a fair and impartial hearing or as requested by one or both of the parties.

6.2.3.4 Participation in Hearing

6.2.3.4.1 Parties. Both the Complainant and the Respondent have a right to be present at the Hearing. Either party may request alternative methods for participating in the Hearing that do not require physical proximity to the other party, including participating through electronic means. This request should be submitted to the Hearing Chair at least two (2) business days prior to the hearing.

If, despite being notified of the date, time, and location of the hearing, either party is not in attendance, the hearing may proceed at the discretion of the Director of OSRR. Neither party is required to participate in the hearing in order for the hearing to proceed.

6.2.3.4.2 Investigator or other witnesses. The Student Conduct Board may request the presence of the Investigator or any other witness it deems necessary to its determination. The parties may also request the presence of any witness they deem relevant to the determination by the Student Conduct. The parties must provide names of witnesses each party deems relevant to the determination in advance of the hearing so that the Student Conduct Board can request participation of the witnesses it deems relevant. The Hearing Panel may decline to hear from witnesses where it, after consulting with the parties about the purpose of the testimony of the witness, concludes that all the information the witness may provide is irrelevant to its review or is unhelpfully duplicative.

6.2.3.4.3 Advisors. Both the Complainant and the Respondent have the right to be represented, at the respective party’s expense, by a licensed attorney or non-attorney advocate who may participate in accordance with UNC Policy Manual 700.4.1[R]. The University reserves the right to remove any individual whose actions are disruptive to the proceedings.

6.2.3.5 Determination by the Student Conduct Board. Once all relevant information has been presented, the Student Conduct Board along with the Hearing Chair will remain in the hearing room and all other participants will be dismissed while the Student Conduct Board deliberates regarding responsibility. Where either of the parties has contested the finding(s) of responsibility, the members of the Student Conduct Board will, at the conclusion of the Hearing, determine, by majority vote, (1) whether the concern(s) stated by the contesting party raise
substantial doubt about the thoroughness, fairness, and/or impartiality of the
investigation; and, if not, (2) whether there is sufficient evidence to support the
Investigator’s finding(s) by a Preponderance of the Evidence. The Student Conduct
Board’s decision will be based solely on the evidence presented at the hearing. The
Student Conduct Board will reconvene the hearing; announce its decision with
respect to findings of responsibility and, if there is a finding of responsibility,
immediately begin the considering sanctioning in accordance with Section 4(a)
below.

If the Student Conduct Board finds that concerns stated by the contesting party
raise substantial doubt about the thoroughness, fairness, and/or impartiality of the
investigation, it will remand the matter to the Director of OSRR with instructions
for further investigation or other action. The instructions may include guidance
regarding the scope of information to be further investigated and any appropriate
stipulations, including the appointment of a new Investigator.

If the Student Conduct Board finds no cause for substantial doubt about the
thoroughness, fairness, and/or impartiality of the investigation, but determines
there is insufficient evidence to support the Investigator’s finding, it may remand
the matter for further investigation or reject the Investigator’s finding(s) and make
alternative finding(s).

If the Student Conduct Board finds no cause for substantial doubt about the
thoroughness, fairness, and/or impartiality of the investigation and affirms that
there is sufficient evidence to support a finding of responsibility by a
Preponderance of the Evidence, such decision will be shared with the Respondent
and Complainant. The Student Conduct Board will immediately begin the
sanctioning phase as outlined in Section 4(a) below.

If the Student Conduct Board finds no cause for substantial doubt about the
thoroughness, fairness, and/or impartiality of the investigation and affirms a finding
of no responsibility, the matter will be considered resolved and the investigation
will be closed. The Student Conduct Board Chair will provide notice of the decision to
the Director of OSRR, who will issue a Final Outcome Letter to the parties as
outlined in Section VI.B.4(b). The Director of OSRR may nevertheless ensure that
remedial measures remain in effect to support a Complainant.

6.2.4 Sanctioning

6.2.3.6 Notice of Student Conduct Board Determination. Within five (5) business
days of the hearing, the Hearing Chair will notify in writing (which may include
email) the Complainant, the Respondent, the Title IX Coordinator and the Vice
Chancellor for Student Affairs of the Student Conduct Board’s determination. At
the time of this notice, the Meeting Chair will also forward to the Vice Chancellor
for Student Affairs a confidential copy of the Final Investigative Report and any
accompanying supplemental statements.
6.2.4.1 **Conduct Administrator Sanctions.** If the Respondent accepts responsibility for the Prohibited Conduct in accordance with Section VI.B.2, the Respondent may waive his/her right to a Student Conduct Board hearing to determine sanctions and instead accept sanctions imposed by a Conduct Administrator. This option is only available when the Complainant does not object to imposition of sanctions by a Conduct Administrator and where the possible sanction does not include expulsion. Both parties will be allowed to present Impact/Mitigation statements, in accordance with Section VI.B.1(q), to the Conduct Administrator for consideration in determining an appropriate sanction. The waiver of a Student Conduct Board hearing regarding sanctions must be voluntary, in writing and signed by the Respondent and the Conduct Administrator. Sanctions imposed must be in accordance with the Student Code of Conduct and may not be appealed by either party.

6.2.4.2 **Student Conduct Board Sanctions.** When the Student Conduct Board upholds an investigator’s findings of responsibility or where the Respondent accepts responsibility for Prohibited Conduct or other Student Code of Conduct violation(s), the Student Conduct Board will convene/reconvene a hearing to determine sanctions. The Student Conduct Board may impose any sanction up to and including suspension. In the event the Student Conduct Board believes expulsion from the University is the appropriate sanction, it will make a recommendation to the Vice Chancellor for Student Affairs, who will make the final determination of sanctions. Sanctions imposed by the Student Conduct Board and the Vice Chancellor for Student Affairs are final except as they may be appealed pursuant to Section VI.B.5.

The Student Conduct Board will allow the student(s) found responsible for Prohibited Conduct or other Student Code of Conduct violation to invite character witnesses to submit letters attesting to her/his character. The Respondent and Complainant may also present impact and/or mitigation statements to the Student Conduct Board. At the conclusion of these presentations, the Student Conduct Board will recess to make its determination of sanctions. At the conclusion, the Student Conduct Board will reconvene the hearing to announce its decision.

The Regulation prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances outlined in the investigation and hearing. In keeping with the University’s commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Student Code of Conduct provides the Student Conduct Board with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Complainant and University community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University’s educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved or
so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University.

In determining the appropriate sanction(s), the Student Conduct Board will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the Prohibited Conduct;
- The nature or violence (if applicable) of the Prohibited Conduct;
- The impact of the Prohibited Conduct on the Complainant;
- The impact or implications of the Prohibited Conduct within the University community;
- Prior misconduct by the Respondent, including the Respondent’s relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

The Student Conduct Board may consult with other administrators or campus offices as needed, including Student Housing, Campus Life, the Director of OSRR, and the Title IX Coordinator, to ensure that any disciplinary action is appropriate for the violation. The scope of possible sanctions issued by the Student Conduct Board will be in compliance with the Student Code of Conduct but may include one or more of the following: (1) imposing or extending a No-Contact Directive; (2) imposing or extending academic, University housing and/or University student employment modifications; (3) other restorative remedies for the Respondent, such as formal referral to the Student Counseling Center and education and training that encourage the Respondent to develop insight about the Prohibited Conduct, learn about the impact of the Prohibited Conduct on the Complainant and the University community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in training, education and/or prevention programs related to the Prohibited Conduct); (4) imposing or extending increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur; (5) arranging for conducting targeted or broad-based educational programming or training for relevant persons or groups; and/or (6) imposing any other remedial or protective measures that are tailored to achieve the goals of the Policy.

Any sanction or combination of sanctions imposed upon a Respondent will be documented in the Respondent’s education record. Nothing in these Procedures prevents the Student Conduct Board from imposing disciplinary action against a Respondent where the Final Investigation Report demonstrates that the Respondent
engaged in other conduct prohibited by the Student Code of Conduct and/or other University Policy.

6.2.4.3 **Notice of Student Conduct Board Determination.** Within two (2) business days of the hearing, the Hearing Chair will notify in writing (which may include email), simultaneously, the Complainant, the Respondent, the Title IX Coordinator, the Director of OSRR, and the Vice Chancellor for Student Affairs of the Student Conduct Board’s determination and imposition of sanctions or recommendation for expulsion (the “Final Outcome letter”). The Final Outcome Letter shall include the name of the Respondent; the violation(s) of the Policy (and, if applicable, the Notice of Nondiscrimination and Affirmative Action policy) for which the Respondent was found responsible or not responsible, the sanction(s) (if applicable) imposed against the Respondent but only as they relate to the Complainant. The rationale for the result and any sanction(s) imposed will be included in the Final Outcome Letter when required by law. The Final Outcome Letter may also identify protective measures implemented with respect to the Respondent or the broader University community. The Final Outcome Letter will not disclose any remedial measures provided to the Complainant, except as may be imposed on the Respondent. Any such remedial measures will be shortly thereafter shared with the Complainant by separate communication.

The University does not impose restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these Procedures, or the Final Outcome Letter, provided that the manner in which any disclosure is made must not be disruptive to the educational and/or work environment. Any party may disclose information about the incident, participation in the proceeding, and the Final Outcome Letter to and in connection with consultation with his or her own legal counsel; otherwise, employees and agents of the university may disclose confidential student records and confidential personnel information about others only to the extent allowed by law.

At the time of this notice, the Hearing Chair will also forward to the Vice Chancellor for Student Affairs a confidential copy of the Final Investigative Report and any accompanying supplemental statements.

6.2.4.4 **Recommendations for Expulsion.** In the event the Student Conduct Board believes expulsion from the University is the appropriate sanction, it will make a recommendation to the Vice Chancellor for Student Affairs who will make the final determination regarding sanctions. OSRR will provide the Notice of Student Conduct Board Determination, including a recommendation for expulsion along with the written record to the Vice Chancellor for Student Affairs within five (5) business days of the hearing. The Vice Chancellor for Student Affairs will review all information provided and issue his/her decision within five (5) business days. The Vice Chancellor may accept the recommendation, reject the recommendation and remand the case back to the Student Conduct Board with such comments and directions as s/he deems appropriate, or reject the recommendation and substitute other sanctions in place of expulsion.
6.2.5 Appeal of Sanctions

Either party may appeal the Sanctions. During an appeal, the appealing party has the burden of showing either (1) a violation of process; or (2) a material deviation from Substantive and Procedural Standards adopted by the UNC Board of Governors.

6.2.5.1 Violation of Process. Material Deviation from Procedural Standards means that the appealing party was not provided the required notice or an opportunity for a fair hearing due to specified procedural errors, or errors in interpretation of University policies or regulations, that were so substantial as to effectively deny the appealing party a fair hearing. Reasonable deviations from the procedures set out in this regulation will not invalidate a decision or proceeding unless the appealing party can show that, but for the deviation or error, there likely would have been a different outcome in the case.

6.2.5.2 Material Deviation. Material Deviation from Substantive Standards means that there is a lack of information in the record that could support the decision or sanction(s). This does not mean the information presented at the hearing can be re-argued on appeal; rather, it requires a showing that no reasonable person could have determined the Respondent was (or was not) responsible or could have imposed the sanction that was issued, based on the information in the record.

6.2.5.3 Requesting an Appeal. The appealing party must specify in writing (“appeal letter”) which grounds form the basis for her/his appeal. The appealing party must provide factual information to support her/his claim and explain what outcomes/he is seeking. The appealing party has a right to be assisted in preparing her/his written challenge by a Student Advisor (a trained Student Conduct Board member) or by a licensed attorney or non-attorney advocate. The Student Advisor’s responsibility is to guide the student through the conduct process, to answer any conduct process-related questions, and to assist with the securing of information from the University. This individual may continue to assist the appealing party throughout the appeal process.

The appeal letter must be dated, signed by the appealing party, and received by OSRR within five (5) business days from the date that the written decision on sanctions is provided to the appealing party, either by hand delivery or by delivery or attempted delivery through e-mail or postal mail. Appeals should be directed to osrr@ecu.edu; or 364 Wright Building. Failure to deliver the written notice of appeal within this time limit will render the decision of the Student Conduct Board (or the Vice Chancellor for Student Affairs in a decision for expulsion) final and conclusive. Upon request to the Director of OSRR, a request for an extension of time may be granted for good cause shown.

6.2.5.4 Appeal of Student Conduct Board Sanctions. Where a Complainant or
Respondent has appealed a sanction imposed by the Student Conduct Board, the Director of OSRR or designee will compile the written record and provide to the Vice Chancellor for Student Affairs or designee to make the final determination based on the standard in Section (c) above. The Vice Chancellor for Student Affairs will make a final administrative decision within fourteen (14) business days or within forty-five (45) business days after the hearing is completed, whichever occurs first.

6.2.5.5 Appeal of Vice Chancellor for Student Affairs Imposition of Expulsion. Should the Vice Chancellor for Student Affairs determine that a Respondent should be expelled; the either party has the right to appeal the decision to the East Carolina University Board of Trustees. The appealing party should send a written appeal by certified or registered mail, return receipt requested, or by another means that provides proof of delivery to the Assistant Secretary to the Board of Trustees within ten business days after the notice of the Vice Chancellor’s decision is sent to the Respondent. A copy should also be provided to the Office of Student Rights and Responsibilities and the Vice Chancellor for Legal Affairs and University Counsel. If the appeal is received in a timely manner, the Board of Trustees will establish a schedule for its review. If the appealing party fails to comply with the schedule, the Board of Trustees may dismiss the appeal.

The Board of Trustees may affirm the decision of the Vice Chancellor for Student Affairs, reject the decision and remand it to the Vice Chancellor for reconsideration, or reject the decision and overturn the finding of responsibility or modify the sanctions imposed. The decision of the Board of Trustees may be appealed by either party to the Board of Governors of the University of North Carolina, to the extent allowed by policy of the University of North Carolina. The written appeal should be sent by certified or registered mail, return receipt requested, or by another means that provides proof of delivery, to the President of the University of North Carolina within ten business days after the notice of the University Board of Trustee’s final decision is sent to the Respondent. The correspondence should be mailed to Office of the President, University of North Carolina, c/o Vice President and General Counsel, P.O. Box 2688, Chapel Hill, NC 27515-2688. A copy should also be provided to the Office of Student Rights and Responsibilities and the Office of the Vice Chancellor for Legal Affairs and University Counsel. The decision of the Board of Governors is final.

6.2.5.6 Nothing in these Procedures abrogates post-adjudication rights as provided by state and federal law (i.e., North Carolina Civil Rights Division of the Office of Administrative Hearings; the Office for Civil Rights; and the Equal Opportunity Employment Commission).

7. Extension of Timelines for Good Cause

The University will typically investigate and come to an initial decision regarding the outcome and sanctions, if any, within 60 business days. However, any deadline or timeframe for a particular portion
of these Procedures may be extended by the Director of OSRR or the Title IX Coordinator for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. In the event an extension is necessary, the Investigator, the Director of OSRR, Title IX Coordinator, or the Vice Chancellor for Student Affairs will notify the parties in writing of any extension of a deadline or timeframe and the reason for such extension.

8. Vice Chancellor for Student Affairs Substitution

The Chancellor may assume the responsibility of the Vice Chancellor for Student Affairs or designate another Vice Chancellor in the event the Vice Chancellor for Student Affairs is unavailable; is a witness in the investigation; has a conflict of interest; or when the Chancellor determines that a substitution is necessary to ensure a fair and timely review. In the event the Chancellor assumes the role of the Vice Chancellor for Student Affairs, the Chancellor will appoint another Vice Chancellor to assume responsibilities of the Chancellor under these procedures.

9. Records Retention

ECU will maintain the investigation record as a confidential personnel record in accordance with N.C. General Statute Chapter 126 and/or a confidential student record in accordance with the Family Educational Rights and Privacy Act (FERPA). The information contained in the investigation record generally will not be released without the written and dated consent of the employee or student identified in the record. However, investigation records may be shared with third parties to the extent allowed under law.