

FAYETTEVILLE STATE UNIVERSITY

PROHIBITED SEXUAL CONDUCT (Sexual Misconduct, Relationship Violence and Stalking)

Authority:	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
Category:	Students
Applies to:	●Administrators ●Faculty ●Staff ●Students
History:	Revised – August 21, 2017 Revised – August 9, 2016 Revised – October 13, 2015 Revised – September 16, 2015 Revised – September 1, 2015 Revised – May 1, 2013 Approved – August 8, 2012
Related Policies/Laws:	● <i>FSU Title IX Policy</i> ● <i>FSU Sexual Harassment Policy</i> ● <i>Title IX, Education Amendments of 1972</i> ● <i>The Violence Against Women Act of 1994, as reauthorized in 2000, 2005, and 2013</i> ● <i>Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act</i>
Contact for Information:	Title IX Coordinator - (910) 672-2325 Office of Legal Affairs - (910) 672-1145

I. INTRODUCTION

Fayetteville State University (“University”) is committed to fostering a healthy and safe environment free from sex/gender-based discrimination and harassment. As such, the University does not tolerate any kind of gender-based misconduct, which includes sexual misconduct, relationship violence or stalking. In keeping with this commitment, the University has implemented this Policy, the purpose of which is to define prohibited acts of conduct based upon sex/gender, outline the process for reporting violations of this Policy and outline the process used to investigate and adjudicate alleged violations of this Policy.

This Policy only addresses prohibited sexual conduct committed by a student against another student. Students who believe they have been subjected to an act of prohibited sexual conduct are encouraged to report the incident. Upon receiving a report, the University will respond promptly, equitably, and thoroughly. In addition, the University will take steps to prevent the recurrence of the conduct. When used in this Policy, the term “Complainant” refers to a student who may have been the alleged victim of any prohibited sexual conduct and the term “Accused Student” refers to a student who has been accused of engaging in prohibited sexual conduct.

Prohibited sexual conduct reportedly committed by faculty, staff, or third parties against students, employees or third parties will be addressed in accordance with the University's *Sexual Harassment* policy. Prohibited sexual conduct reportedly committed by students against employees or third parties will be addressed in accordance with the *Code of Student Conduct*. All such allegations shall be reviewed, investigated and resolved in accordance with the respective policy.

II. PROHIBITED SEXUAL CONDUCT

Prohibited Sexual Conduct is a term used in this Policy to collectively define different types of sex/gender-based conduct which this Policy prohibits. Such conduct includes sexual misconduct, relationship (dating or domestic) violence and stalking.

Prohibited Sexual Conduct can be committed by students of any sex/gender, and it can occur between students of the same sex/gender or different sex/genders. Prohibited Sexual Conduct can occur between strangers or acquaintances, as well as students involved in intimate or sexual relationships.

III. SEXUAL MISCONDUCT

- A. Sexual misconduct is defined as any act of a sexual nature perpetrated against an individual without effective consent (see definition below of "effective consent") or when an individual is unable to freely give consent. Sexual misconduct includes, but is not limited to:
1. Attempted or completed intercourse or penetration (anal, oral or vaginal), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective consent. This may include, but not be limited to vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).
 2. Sexual touching (including disrobing or exposure) by a man or a woman upon a man or a woman, without effective consent which may include, but not be limited to any contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch any of these body parts, when such touching would be reasonably and objectively offensive.
 3. Sexual exploitation, defined as taking non-consensual, unjust or abusive sexual advantage of another, for one's own advantage or benefit; or to benefit or advantage anyone other than the one being exploited. Sexual exploitation encompasses a wide range of behaviors which may include, but are not limited to:
 - Non-consensual video or audio-recording of sexual activity;
 - Inducing incapacitation with the intent to rape or sexually assault another student;

- Allowing others to observe a personal act of consensual sex or non-consensual without knowledge or consent of all participants;
 - Engaging in peeping tommery (voyeurism), secretly spying on others; or
 - Knowingly transmitting a sexually transmitted disease, including HIV, to another student.
4. Sexual intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, how a person uses their size may constitute intimidation. Sexual intimidation may involve the following:
- threatening to commit sexual misconduct upon another person;
 - stalking;
 - cyber-stalking;
 - social media exploitation;
 - engaging in indecent exposure.; **or**
 - blocking access to an entrance or exit to a room or building.
5. Sexual coercion is more than an effort to persuade, entice, or attract another person to have sex or engage in a sex act. When a person makes clear that they do not want to participate in a sex act, that they want it to stop, or that they do not want to go beyond a certain sexual interaction, continued pressure can be coercive.

B. EFFECTIVE CONSENT

Effective consent is informed, freely and actively given, mutually understandable words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. In the absence of mutually understandable words or actions it is the responsibility of the initiator, that is, the person who wants to engage in the specific sexual activity, to make sure that they have consent from their partner(s). Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same act, in the same way, at the same time, with each other.

The following should also be considered in determining consent:

- Consent may never be given by any of the following:
 - o Minors (under the age of 16 in North Carolina) and mentally disabled persons
 - o Individuals who are **incapacitated** as a result of alcohol or other drugs (including if self-ingested) or who are unconscious or otherwise physically helpless. Incapacitation means being in a state where an individual lacks the capacity to appreciate the nature of giving consent to participate in sexual activity.
- An individual may not engage in sexual activity with another who the individual knows, or should reasonably have known, is incapacitated as a result of alcohol or other drugs. The perspective of a reasonable person will be the basis for determining whether an individual should have known about the impact of the

use of alcohol or drugs on another's ability to give consent. **Being intoxicated or high does not diminish an individual's responsibility to obtain consent and is never an excuse for sexual misconduct.**

- Consent may not be inferred from silence, passivity or lack of active resistance alone.
- A current or previous dating or sexual relationship (or the existence of such a relationship with anyone else) may not, in itself, be taken to imply consent.
- Consent cannot be implied by attire, or inferred from the buying of dinner or the spending of money on a date.
- Consent to one type of sexual act may not, in itself, be taken to imply consent to another type of sexual act.
- Consent expires. Consent lasts for a reasonable time, depending on the circumstances.
- Consent which is obtained through the use of fraud or force, whether that force is physical force, threats, intimidation, or coercion, is ineffective consent. Intimidation or coercion is determined by reference to the reasonable perception of a person found in the same or similar circumstances.

C. **SEXUAL MISCONDUCT AMNESTY**

The University will consider granting amnesty to students who may have violated the University's prohibition against having alcohol on campus or under-age drinking at the same time of the incident when s/he became a victim of sexual misconduct. Therefore, the University will consider not filing charges against a student who reports that the student was under the influence of alcohol at the time the student became a victim of sexual misconduct.

IV. **RELATIONSHIP VIOLENCE**

Relationship Violence is any act of violence or pattern of abusive behavior in a relationship that is used by one partner to gain or maintain power and control over another partner. Relationship violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Relationship violence includes domestic violence and dating violence defined as follows.

A. **Domestic Violence**

Domestic violence includes, but is not limited to, any act of violence or pattern of abusive behavior committed by any of the following:

- a current or former spouse of the Complainant;
- a person with whom the Complainant shares a child in common; and/or
- a person who is cohabitating with or has cohabitated with the Complainant as a spouse.

The State of North Carolina's definition of domestic violence can be found in North Carolina General Statute §50B-1 which is applicable to criminal prosecutions for domestic violence in North Carolina, but may differ from the definition used by the University to address violations of this Policy.

B. Dating Violence

Dating violence is any act of violence or pattern of abusive behavior committed by an individual who has been in a social relationship of a romantic or intimate nature with the Complainant. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

V. STALKING

Stalking (based upon sex/gender) is defined as a course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include the following: pursuing or following; non-consensual (unwanted) communication or contact - including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

The State of North Carolina's definition of stalking can be found in North Carolina General Statute §14-277.3A which is applicable to criminal prosecutions for stalking in North Carolina, but may differ from the definition used by the University to address violations of this Policy.

Stalking alleged to have been committed by a student which is not based on sex/gender is addressed under the University's *Code of Student Conduct*.

VI. REPORTING INCIDENTS OF PROHIBITED SEXUAL CONDUCT

The University encourages the reporting of incidents of Prohibited Sexual Conduct. Reports may be made by a student who believes that s/he has been the victim of Prohibited Sexual Conduct or an individual who has information related to an incident of Prohibited Sexual Conduct.

A student who believes that s/he has been the victim of an alleged act of Prohibited Sexual Conduct committed by a student, may file a criminal complaint with the appropriate law enforcement agency. The student may also file a complaint with the Title IX Coordinator or request a hearing before the Hearing Panel charged with hearing such complaints. The student may pursue the criminal and University processes simultaneously. Regardless of the option chosen, the University will initiate an administrative investigation.

The University encourages a student who has been the victim of Prohibited Sexual Conduct to seek medical assistance immediately. Students are also encouraged to preserve any evidence that may be important to an investigation of a complaint of Prohibited Sexual Conduct including, but not limited to, physical evidence, handwritten or electronic communications such as text messages, telephone messages and emails, videos and/or photographs of the incident.

The length of time between an incident and making a report of Prohibited Sexual Conduct will not affect the willingness of the University to investigate the allegations or to provide support and other services to the Complainant. However, a prompt report will significantly improve the ability of University officials to conduct a full investigation and enhance the effectiveness of any

criminal and/or University investigation. Individuals are therefore strongly encouraged to report incidents of Prohibited Sexual Conduct immediately following the occurrence.

A. Reports to Confidential Resources

Confidential resources in the form of trained licensed counselors in the Center for Personal Development and medical personnel in Student Health Services can provide confidential counseling, information, and support. These confidential resources will not share information about a student (including whether that student has received services) without the student's express permission, unless there is a continuing threat of serious harm to the student, to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

B. Reports to Law Enforcement

The University encourages students to report incidents of Prohibited Sexual Conduct to a law enforcement agency. If the incident occurred on University owned or leased property, the University Police is the appropriate agency with which to file a report by dialing (910) 672-1911. Incidents occurring on property not owned or leased by the University should be reported to the appropriate city or county law enforcement agency by dialing 911. The University Police can assist with contacting the appropriate law enforcement agency.

If incidents of Prohibited Sexual Conduct are reported to the University Police, the University Police shall notify the Complainant of the Complainant's right to file a complaint with the University in addition to filing a criminal complaint. The University Police shall also report incidents of Prohibited Sexual Conduct involving students to the Title IX Coordinator

Upon receipt of such information, the Title IX Coordinator shall conduct an administrative investigation, which shall be considered distinct from the criminal investigation conducted by a law enforcement agency. The Title IX Coordinator shall not wait for the conclusion of a criminal investigation or criminal proceeding to begin the University's administrative investigation although the Title IX Coordinator may delay temporarily the fact-finding portion of the administrative investigation while the University Police are gathering evidence. Once notified that the University Police has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the Title IX Coordinator shall promptly resume and complete the fact-finding for the administrative investigation. Information obtained through the criminal investigation may be used by the Title IX Coordinator and/or the Office of the Director of Student Conduct for consideration in the University disciplinary process.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of the *Code of Student Conduct and/or this Policy*, criminal investigations or reports are not determinative of whether Prohibited Sexual Conduct, for purposes of this Policy, has occurred. Conduct may constitute Prohibited Sexual Conduct under this Policy and/or the *Code of Student Conduct* even if a law enforcement agency lacks sufficient evidence of a crime and therefore declines to prosecute.

C. Reports to the Title IX Coordinator

Because Prohibited Sexual Conduct may constitute a violation of University policy, the University encourages students or others to report alleged Prohibited Sexual Conduct promptly to University officials whether or not or even if such reports have been reported to a law enforcement agency. Such incidents should be reported to the Title IX Coordinator. The Title IX Coordinator oversees the University's investigation, response to, and resolution of all reports of Prohibited Sexual Conduct. The following is the contact information for the Title IX Coordinator:

**Ms. Patricia Bradley
Title IX Coordinator
Barber Building, Room 242
(910) 672-2325
TitleIX@uncfsu.edu**

If a student or another individual reports an incident of Prohibited Sexual Conduct to the University or if a law enforcement agency notifies the University of an incident involving students, the Title IX Coordinator shall promptly begin an administrative investigation into the allegations. In so doing, the Title IX Coordinator shall be authorized to issue "no-contact" orders and to seek other appropriate interim measures (e.g., changes to class schedules) to assure a student's safety.

The Title IX Coordinator will meet with the Complainant as soon as possible. If the Complainant has not contacted the University Police prior to meeting with the Title IX Coordinator, the Title IX Coordinator shall inform the student of the Complainant's right to file a criminal complaint.

When meeting with the individual reporting the incident, the Title IX Coordinator shall seek to determine if the student wishes to file an official complaint. Any complaint filed must be done so in writing. If the student indicates that s/he does not wish to file a complaint, the Title IX Coordinator shall inform the student that federal law requires the University to investigate and take reasonable action in response to the complaint.

If a student requests that the complaint remain confidential, the Title IX Coordinator may consider the student's request by conducting a preliminary investigation into the Prohibited Sexual Conduct allegation and weighing the student's request against the following factors:

- the seriousness of the alleged Prohibited Sexual Conduct ;
- whether there have been other complaints of Prohibited Sexual Conduct against the same accused student(s); and
- the accused student's right to receive information about the allegations if the information is maintained by the University as an "education record" under the Family Educational Rights and Privacy Act ("FERPA").

After conducting the preliminary investigation, if the Title IX Coordinator determines that the student's request can be honored, the Title IX Coordinator should take all reasonable steps to respond to the complaint consistent with the request. However, a decision to maintain confidentiality will not mean that confidentiality will be absolutely

guaranteed in all circumstances, but only that all efforts will be undertaken to keep information confidential consistent with applicable law.

Even if the University cannot take disciplinary action against an accused student because of the request for confidentiality or the request to not pursue an investigation, the University will nevertheless take prompt and effective action to limit the effects of the alleged Prohibited Sexual Conduct and to prevent its recurrence.

D. Reports to University Employees/Students

All University employees, *except for counselors in the Center for Personal Development and student health services medical personnel*, with knowledge of an incident of Prohibited Sexual Conduct committed by a University student or experienced by a University student are obligated to report the incident to the University Police, the Title IX Coordinator or the Director of Student Conduct. The employee reporting the incident is not authorized to investigate or attempt to resolve the incident without the involvement of the Title IX Coordinator.

Students with knowledge of an incident of Prohibited Sexual Conduct committed by or experienced by a University student are encouraged to report the incident to the University Police, the Title IX Coordinator or the Director of Student Conduct.

E. Reports to the Office of Civil Rights

A report of Prohibited Sexual Conduct may be made directly to the United States Department of Education's Office of Civil Rights at <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

VII. RESPONDING TO PROHIBITED SEXUAL CONDUCT ALLEGATIONS

The following is the University's process for responding to allegations of Prohibited Sexual Conduct:

A. Investigation

The Title IX Coordinator shall investigate the complaint to include fully interviewing the Complainant, the alleged offender ("Accused Student") and any other parties deemed relevant to the investigation. The investigation shall also include a review of any relevant evidence.

B. Findings and Determinations

Following the completion of the investigation, the Title IX Coordinator shall prepare a written report consisting of a statement of the charges, evidence received, summary of the findings and a determination (using the preponderance of the evidence standard, *i.e.*, it is more likely than not that Prohibited Sexual Conduct occurred) as to whether or not there has been a violation of this Policy and/or the *Code of Student Conduct*. The Complainant and the Accused Student will receive written notification of the outcome and disposition of the complaint.

1. Finding of a Violation

a. Responsibility Acknowledged

If there is a finding that a violation occurred and the Accused Student acknowledges responsibility, the Associate Vice Chancellor for Student Affairs shall determine an appropriate sanction and notify, in writing, the Accused Student and the Complainant of the sanction. If the sanction is agreed upon by both parties, the complaint shall be considered as resolved. If the Accused Student rejects the sanction, the Hearing Panel shall be convened for the sole purpose of determining a sanction.

b. Responsibility Not Acknowledged

If there is a finding of a violation and the Accused Student does not acknowledge responsibility, the Title IX Coordinator may file charges against the Accused Student. Such charges shall be issued by the Director of Student Conduct in accordance with Section VII. C. below.

2. Finding of No Violation

If there is a finding that a violation did not occur or the evidence is lacking to determine whether or not a violation occurred, the Complainant may request a review before the Hearing Panel in accordance with the procedures outlined in this Policy.

C. Hearing Panel Review

1. Filing of a Written Complaint or Formal Charges

a. Filing of a Written Complaint by a Complainant

A Complainant may file a written complaint against an Accused Student for violating this Policy. The complaint shall be filed with the Director of Student Conduct. Although the University does not impose a time limit after which it will not consider formal complaints of Prohibited Sexual Conduct, timely filing typically allows access to the most useful and relevant recent recollections and evidence and facilitates more prompt resolution.

b. Filing of Charges by the Director of Student Conduct/Title IX Director

The Director of Student Conduct or the Title IX Coordinator may file a formal charge against an Accused Student for violating this Policy. Such filing must occur within ten (10) business days of the conclusion of the Title IX Coordinator's investigation.

Upon notification of the filing of a written complaint or formal charges, the Director of Student Conduct shall notify the Accused Student and Complainant,

in writing, of the complaint/charge through a Notice of Charge and thereafter notify each party of the date, time and place of the hearing. The hearing date may not be scheduled for at least ten (10) business days after the Accused Student receives notice of the complaint/charges, unless the Accused Student agrees to an earlier hearing date. Scheduling of hearings shall occur with priority given to the availability of Hearing Panel members, the Complainant, Accused Student, University administrators and witnesses. Reasonable extensions of time to prepare for the hearing may be allowed.

No less than seven (7) business days prior to the hearing date, the parties shall provide the Director of Student Conduct with brief written statements describing their positions, a list of witnesses they propose to call, copies of documents they plan to present, and a description of any other evidence they propose to present at the hearing. Parties may not introduce witnesses, documents, or other evidence at the hearing that were not timely provided to the Director of Student Conduct as set forth above. The parties shall also be responsible for securing the attendance of their proposed witnesses at the hearing.

No less than five (5) business days prior to the hearing, both parties shall be given the opportunity to review the aforementioned evidence provided to the Director of Student Conduct that the parties plan to present at the hearing.

2. Hearing Panel

The Hearing Panel shall be responsible for conducting hearings on complaints or formal charges alleging violations of this Policy. The Hearing Panel shall be composed of five (5) University employees. Members of the Hearing Panel shall be appointed by the Vice Chancellor for Student Affairs (“Vice Chancellor”), who shall also appoint the Chair of the Panel (Chair).

3. Participation of Attorneys or Non-Attorney Advocates

An Accused Student has the right to be represented, at the student’s own expense, by a licensed attorney or non-attorney advocate (“Advocate”) of the student’s own choosing in a hearing before the Hearing Panel. When an Advocate will be present and participating in a hearing on behalf of an Accused Student, the Complainant shall also be permitted to have an Advocate present under the same conditions.

Despite the presence of an Advocate at a hearing, the University’s process remains non-adversarial and educational in nature. Advocates may fully participate in these proceedings only to the extent afforded to the student that is being represented. Formal rules of evidence regarding the admissibility of evidence or testimony applicable to criminal and civil causes of action do not apply. Additionally, Advocates may not delay, disrupt, or otherwise interfere with the hearing process.

The following are requirements that must be met in order for a student to be represented by an Advocate at a hearing:

a. **Notice of Representation**

A student who plans to have an Advocate participate in the hearing must notify the Director of Student Conduct of the Advocate's intended participation at least five (5) business days prior to the hearing. This notice must specify the following:

- The identity of the Advocate;
- Whether the Advocate is a licensed attorney or a non-attorney advocate; and
- An address, telephone number, and email address where the Advocate can be reached.

b. **Release and Certification**

A student who plans to have an Advocate participate in the hearing process must present the following documentation at least five (5) business days prior to the hearing:

- i. **FERPA Release** - In order for an Advocate to represent a student at a hearing or to speak with University officials regarding the student, the student must complete and submit a written authorization that meets the requirements of a valid consent as specified by the FERPA.

Even if a student executes a valid FERPA consent authorizing the Advocate to receive information or documents regarding the student, the University will at all times correspond directly with the student. It is the student's responsibility to communicate and share information with the Advocate.

- ii. **Advocate Certification** – A student who plans to have a licensed Advocate represent the student at a hearing must submit a certification form signed by the Advocate stating that the Advocate has read in their entirety and understands the following documents:

- the University's Code of Student Conduct;
- the University's Prohibited Sexual Conduct policy; and
- Section 700.4.1 of the UNC Policy Manual and the associated regulation.

4. **Hearing Procedures**

A hearing before the Hearing Panel shall be closed and shall be attended only by the following parties:

- the Accused Student, Accused Student’s witnesses, Accused Student’s Advocate or Observer;
- the Complainant, Complainant’s witnesses and Complainant’s Advocate or Observer;
- the Hearing Panel members and any other persons requested to be present by the Chair;
- the Director of Student Conduct;
- the Title IX Coordinator;
- Persons called by the Title IX Coordinator or Director of Student Conduct if charges were filed by the Title IX Coordinator/Director of Student Conduct; and
- a University attorney if an Advocate of the Complainant or Accused Student is present at the hearing.

At the hearing, any real or perceived conflicts of interest between the Hearing Panel and the parties shall be disclosed. If a conflict exists, the Hearing Panel member who is the subject of the conflict shall be prohibited from participating in the hearing and deliberations

The Complainant and Accused Student or their Advocates will not be permitted to ask questions directly of the Complainant or Accused Student. Such questions shall be directed to the Chair. The Complainant and Accused Student or their Advocates may directly ask questions of witnesses testifying before the Hearing Panel.

Issues regarding admission of evidence or testimony, including relevancy and the reliability of the evidence and testimony shall be determined by the Chair during the hearing. Irrelevant sexual history of either party may not be discussed during the hearing. University students/employees who appear before the Hearing Panel, whether as parties to the proceedings or as witnesses, are expected to provide truthful testimony.

At the conclusion of the hearing, the Hearing Panel shall confer and make a determination as to whether the Accused Student is responsible for the Prohibited Sexual Conduct. Evidence shall be evaluated under a “preponderance of the evidence standard,” meaning that the Accused Student shall be found responsible if, based upon the entirety of the evidence presented during the hearing, it is determined that the Accused Student “more likely than not” committed the offense in question.

The Director of Student Conduct shall seek to have the hearing completed within forty-five (45) business days of the receipt of the written complaint.

5. Sanctions

a. Sanctions Imposed Based upon a Hearing Panel Review

The Hearing Panel may impose any sanction that it determines to be fair and proportionate to the violation as long as such sanction is consistent with the *Code of Student Conduct*. In determining an appropriate

sanction, the Hearing Panel may consider any record of past violations and the severity of such past violations.

Pursuant to the Clery Act, the University shall notify, in writing, both the Complainant and the Accused Student of the outcome of any University disciplinary proceeding involving sexual misconduct or interpersonal violence. The results of the disciplinary hearing to be provided to the parties shall include the following

- the name of the Accused Student,
- the violation charged or committed,
- the essential findings supporting the conclusion that the violation was committed,
- the sanction if any that is imposed and the duration of the sanction, and
- the date the sanction was imposed.

b. Sanctions Imposed Based upon Acknowledgement of Responsibility

An Accused Student, who has acknowledged responsibility for violating this Policy but does not agree with the sanction imposed by the Associate Vice Chancellor for Student Affairs may request a hearing before the Hearing Panel for the sole purpose of determining sanctions. The formal process outlined above shall not be applicable. The Hearing Panel may, however, hear any evidence the Hearing Panel considers relevant to making a determination on sanctions.

A decision by the Hearing Panel on sanctions shall be made in writing and sent to both parties no later than ten (10) business days following the conclusion of the hearing on sanctions.

6. Appeals

Either party may appeal the Hearing Panel's decision to the Vice Chancellor for Student Affairs ("Vice Chancellor") within ten (10) business days of the receipt of the Hearing Panel's decision. Grounds for appeal are limited to the following:

- a violation of due process; or
- a material deviation from substantive and procedural standards adopted by the University and/or Board of Governors.

The Vice Chancellor shall notify the parties of the Vice Chancellor's decision within ten (10) business days of the receipt of the appeal, if the decision is other than an expulsion. A decision by the Vice Chancellor shall be final, except in the case of expulsion. If the Vice Chancellor determines that a student should be expelled, the Vice Chancellor shall forward a recommendation for expulsion to the Chancellor. The Chancellor shall notify the parties involved of the

Chancellor's decision regarding the expulsion within ten (10) business days of the receipt of the Vice Chancellor's recommendation.

VIII. CONFIDENTIALITY

The University recognizes the importance of confidentiality and University officials shall respect the confidentiality and privacy of individuals reporting or accused of sexual misconduct or interpersonal violence to the extent reasonably possible. Confidentiality may not be able to be maintained in circumstances where the law requires disclosure of information or when disclosure required by the University outweighs protecting the rights of others.

IX. RETALIATION

Retaliation against an individual who reports or complains of sexual misconduct or interpersonal violence, or who provides information in a sexual misconduct investigation or proceeding, is prohibited. Alleged retaliation shall be subject to investigation and may result in disciplinary action.

X. FALSE CLAIMS

An individual who knowingly makes false allegations or who knowingly provides false information in a sexual misconduct or interpersonal violence investigation or proceeding, shall be subject to disciplinary action.

XI. RECORDS

The Title IX Coordinator shall maintain all records related to investigations into allegations of sexual misconduct or interpersonal violence until the process has been concluded. The Director of Student Conduct shall maintain all records related to a hearing before the Hearing Panel, which may include written findings of facts, transcripts, or audio recordings.