

**Complaint Resolution Procedure for Faculty or Staff Respondents and  
Certain Non-University Community Members**  
(pursuant to [University Policy 502, Sexual Misconduct and Interpersonal Violence](#))

I. Overview and Purpose

This Complaint Resolution Procedure for Faculty or Staff Respondents and Certain Non-University Community Members (“**Procedure**”) applies to all University faculty or staff, as well as certain non-University community members such as contractors/affiliates and visitors.

**NOTE: Complaints by employees subject to the State Human Resources Act (SHRA), whose complaint is against a faculty or staff Respondent and whose complaint is filed within 15 calendar days of the alleged Sexual Misconduct or Interpersonal Violence, are processed pursuant to the [SHRA Grievance Policy](#) rather than this Procedure.**

In responding to reports of Sexual Misconduct and Interpersonal Violence, the University complies with Title IX of the Higher Education Amendments of 1972 (“Title IX”), Title VII of the Civil Rights Act (“Title VII”), and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Campus Sexual Violence Elimination Act (“Clery Act”).

When necessary, and in consultation with the Office of Legal Affairs, the Director of Civil Rights and Title IX may alter this Procedure to protect the University community, property, or resources.

The Procedure outlined here differs from the criminal justice system in scope, purpose, procedure, and outcome, and is not designed to replace state or federal criminal laws or procedures. Individuals may be accountable to both civil authorities and to the University for acts that constitute violations of law and policy. The Procedure outlined here will normally proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident(s) have not been filed or have been dismissed or reduced.

II. Definitions

**Appropriate University Official** is the Provost and Vice Chancellor for Academic Affairs for cases involving faculty Respondents. For SHRA staff or EHRA non-faculty Respondents, the Associate Vice Chancellor for Human Resources is the Appropriate University Official.

**Complainant** is the individual who either directly experienced the alleged Sexual Misconduct or Interpersonal Violence or related Retaliation or whose access to the University’s programs, activities, or workplaces was impacted by Sexual Misconduct or Interpersonal Violence or related Retaliation.

**Dating Violence** is committing violence against an individual with whom the Respondent is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the individuals involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include conduct that meets the definition of Domestic Violence under this Procedure. If alleged Dating Violence occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#), and not this Procedure.

**Director** is the Director of Civil Rights and Title IX/Title IX Coordinator.

**Domestic Violence** is committing violence that may constitute a felony or misdemeanor crime of violence against an individual (a) who is a current or former spouse or intimate partner; (b) with whom the Respondent shares a child in common; (c) with whom the Respondent cohabitates or has cohabitated as a spouse or intimate partner; (d) who is similarly situated as a spouse under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) who is a youth or adult and is protected from that Respondent's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. If alleged Domestic Violence occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#), and not this Procedure.

**Interpersonal Violence** includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

**Policy** is [University Policy 502, Sexual Misconduct and Interpersonal Violence](#).

**Respondent** is the individual who allegedly committed Sexual Misconduct or Interpersonal Violence, or related Retaliation.

**Retaliation** includes threatening, intimidating, or coercive behaviors and other adverse actions that would deter a reasonable person in the same or similar circumstances from reporting Sexual Misconduct or Interpersonal Violence or cooperating in the University's investigation of any such report, even if the behaviors do not ultimately have that effect.

**Sexual Assault** is any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual Assault includes:

- the penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent;
- the touching of the private body parts of another person for the purpose of sexual gratification without consent;
- sexual intercourse with a person who is under the statutory age of consent; and
- sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

If alleged Sexual Assault occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#), and not this Procedure.

**Sexual Harassment** is a form of sex discrimination that includes:

- Unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature if such conduct is sufficiently severe, persistent, or pervasive to limit another individual's ability to participate in or benefit from an education program or activity, or create a hostile or abusive educational or employment environment, unless such conduct constitutes Sexual Harassment as defined by [University Policy 504, Title IX Grievance Policy](#); or
- "Quid pro quo" harassment is when a University employee, who has supervisory or other authority over another individual, explicitly or implicitly conditions the individual's job-related benefits or conditions of employment or participation in an education program or activity on

such individual's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature, unless such conduct constitutes Sexual Harassment as defined by [University Policy 504, Title IX Grievance Policy](#). "Quid pro quo" harassment is prohibited whether the individual resists and suffers the threatened harm or submits and thus avoids the threatened harm. Allegations of "quid pro quo" harassment may also implicate [University Policy 101.3, Relationships between Students and Faculty Members or Other University Employees](#), which requires disclosure of amorous relationships between employees and students they supervise. Compliance with the disclosure requirements of [University Policy 101.3](#) will not necessarily insulate the employee from review under the Policy or this Procedure.

**Sexual Misconduct** includes Sexual Harassment as well as unwanted sexual touching, unwanted exposure of intimate parts, and taking abusive sexual advantage of someone (recording, photographing, or distributing identifiable images of a private sexual activity and/or the intimate parts of an individual or otherwise invading sexual privacy).

**Stalking** is engaging in a course of conduct (two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties [by any action, method, device, or means] follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property) directed at a specific individual that would cause a reasonable individual (under similar circumstances and with similar identities to the victim) to (a) fear for their safety or the safety of others or (b) suffer substantial emotional distress. If alleged Stalking is based on sex and occurs within a University's education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#), and not this Procedure.

### III. University Response to Reports of Sexual Misconduct and Interpersonal Violence

The University's response to reports of Sexual Misconduct and Interpersonal Violence or related Retaliation is managed by the Office of Civil Rights and Title IX. Depending on the nature of the report and the preferences of the Complainant, the Director may utilize informal response options, such as support and accommodations for the Complainant, increased monitoring of certain University areas, or educational opportunities for a Respondent or larger group of individuals, or the Director may utilize more formal response options, such as a mutual resolution process or an investigation. Both formal processes are described in more detail in Sections III.B. and III.C. below. If a Respondent separates from University employment prior to completion of a formal process, the University may decide to discontinue that process. Even if it discontinues the formal process, the University will take appropriate action to rectify and prevent the recurrence of any alleged Sexual Misconduct or Interpersonal Violence or related Retaliation.

#### A. Preliminary Response to Reported Violations

Following receipt of a report, the Office of Civil Rights and Title IX will ensure, at a minimum, that the Complainant is provided with information required by federal law, as applicable, which information may include, but is not limited to, information about academic, housing, transportation, and employment accommodations; information about support resources and

services both on- and off-campus; and information about available grievance procedures, including but not limited to the Policy and this Procedure.

The Director will assess whether the reported behaviors, if true, would violate the Policy or other related policies, and determine which policy or procedure applies. In order to make this assessment, the Director or designee may seek additional clarification from the individual who submitted the report and/or the Complainant.

The Director is also authorized, upon receiving the report, to take immediate action, where such action appears necessary, to protect the interests of the Complainant or the Respondent or others impacted by the reported behaviors. Such actions may include, but are not limited to, temporary adjustment of schedules, temporary adjustment of supervisory relationships, or other appropriate interim measures.

If the Director determines that the report, following clarification, would not violate the Policy or other related policies, the Director may close the case without further investigation. The Director or designee will notify the Complainant of a decision to close the case and provide any appropriate follow-up information. Regardless of the closure of a case, the Director may still determine that increased monitoring, additional education, or other informal actions are appropriate based on the circumstances.

If the Director determines that the reported behaviors would, if substantiated, violate the Policy or other related policies, the Director or designee will inform the Complainant of the right to proceed with a mutual resolution, if deemed appropriate by the Director, or an investigation. The University may be compelled to proceed with an investigation even if the Complainant does not elect to participate based on:

- the seriousness of the alleged Sexual Misconduct or Interpersonal Violence, or related Retaliation;
- whether there have been other known reports of Sexual Misconduct or Interpersonal Violence, or related Retaliation against the same Respondent at the University or any other school or known prior criminal charges against the Respondent;
- whether the Respondent threatened further Sexual Misconduct or Interpersonal Violence, or related Retaliation against the Complainant or others;
- whether the Sexual Misconduct or Interpersonal Violence, or related Retaliation was committed by multiple individuals;
- whether the Sexual Misconduct or Interpersonal Violence, or related Retaliation involved use of a weapon;
- the ages and respective roles of the Complainant and the Respondent;
- whether the University possesses other means to obtain relevant information of the Sexual Misconduct or Interpersonal Violence, or related Retaliation;
- whether the report reveals a pattern of conduct at a particular location, within a particular University unit, or by a particular University group; and
- the Respondent's right to receive information about the allegation(s) if the information is maintained by the University as an "education record" under the Family Educational Rights and Privacy Act (FERPA) or personnel information under the SHRA.

The Office of Civil Rights and Title IX will review the matter discretely, sharing information on a need-to-know basis only, ensuring that all individuals who may be the subject of the investigation are advised regarding the University's policy prohibiting Retaliation against individuals who report violations of the Policy or who cooperate in the University's investigation of any reported violations.

If the Director moves forward with a mutual resolution or an investigation, the Respondent will be notified in writing of the alleged violations of the Policy or related policies. The Director or designee will also offer to meet with the Respondent to provide the Respondent, at a minimum, with information required by federal law, as applicable, which may include but not be limited to information about academic, housing, transportation, and employment accommodations; information about support resources and services both on- and off-campus; and information about applicable procedures, including but not limited to the Policy and this Procedure.

#### B. Mutual Resolution of Reported Violations

The University encourages mutual resolution of reported Sexual Misconduct and Interpersonal Violence or related Retaliation when such resolution is deemed appropriate by the Director. Such resolutions may or may not include the imposition of disciplinary sanctions. The Director, or a University official designated by that officer, is authorized to assist the Complainant and Respondent in achieving such resolutions. The Director is authorized to approve such a resolution on behalf of the University after approval by the Chancellor or the Chancellor's designee.

#### C. Investigation

A neutral investigator, designated by the Director, will have responsibility for conducting the investigation of alleged Sexual Misconduct or Interpersonal Violence. The purpose of the investigation is to advise the Appropriate University Official regarding whether there is sufficient evidence of a violation of the Policy or other related policy to justify further administrative review and potential remedial action.

If a report is made against a supervisor or administrator who would otherwise play a role in responding to and attempting to resolve the reported violation, or who may have a relationship with the Complainant or Respondent that undermines the supervisor's or administrator's neutrality, the function assigned to that person by this Procedure may be assigned to another person. A Complainant's or Respondent's concerns regarding the neutrality of the designated decision-maker should be brought promptly to the Director's attention. If the Director determines that the neutrality of the decision-maker is reasonably in question, the Director will request that the Chancellor designate another decision-maker.

The scope of the investigation will be determined by the Director according to the charge and the allegations in the report. The method of investigation is within the discretion of the Director and/or the investigator. However, the following requirements will be observed:

1. All evidence collected during the investigation will be preserved per the University's applicable records retention schedule. All party and witness interviews will be audio recorded by the University but may not be recorded by any party or witness.

2. Both the Complainant and the Respondent may be accompanied by an advisor throughout the investigation. The advisor may provide support and advice to the Complainant or Respondent but may not unduly delay, disrupt, or otherwise interfere with the investigation. A person serving as an advisor may not also serve as a witness.
3. The Complainant and Respondent will be provided an equal opportunity to present relevant information or evidence and identify potential witnesses. As to any evidence collected during the investigation, the investigator may ask questions or request additional information and may refuse to consider any evidence submitted which the investigator concludes is repetitious, irrelevant, or otherwise without sufficient value to the investigation.
4. Multiple interviews may be conducted with the Complainant, Respondent, or any other person if necessary to aid the investigator in understanding relevant facts. Likewise, the investigator may obtain any University information reasonably deemed relevant to the investigation and may request from the Complainant, Respondent, witnesses, or other sources any relevant documents or other information.
5. After gathering relevant information and interviewing the parties and relevant witnesses, the investigator will prepare a Preliminary Report, which will include:
  - a list of witnesses interviewed and evidence reviewed,
  - a summary of relevant information from interviews,
  - an assessment of the parties' and witnesses' credibility,
  - a summary of established facts, and
  - a recommendation regarding whether there is sufficient evidence to support the allegations in the report.
6. Both the Complainant and the Respondent will be provided a reasonable opportunity to review the Preliminary Report in person but are not entitled to a copy. Both parties will also be provided a reasonable opportunity to respond in writing to the Preliminary Report.
7. After considering such response(s) to the Preliminary Report as the Complainant and Respondent may choose to make, the investigator will prepare a Final Report. The Final Report will be provided to the Appropriate University Official.
8. The Appropriate University Official will review the Final Report, including the facts gathered as well as the recommendations. If the Appropriate University Official determines that the facts support that the Respondent has violated the Policy or other related policies, the Appropriate University Official will obtain from the relevant University administrator or administrators a confidential statement summarizing past instances, if any, in which the Respondent has been found responsible for or otherwise admitted to other violations of University policy, including but not limited to the Policy. Subject to the limitations imposed by applicable disciplinary policy, the Appropriate University Official will consider such records in any recommendation to impose discipline on the person found to have violated the Policy.
9. Following consultation with the Director, the Appropriate University Official will write a memorandum summarizing the main points of the investigation, applying the preponderance of the evidence standard, determining whether or not a violation occurred, and implementing any appropriate sanctions. The Appropriate University Official will notify the parties when the memorandum and the Final Report are available and provide the parties with an opportunity to review the documents. The parties will receive simultaneous notification of the outcome, which will also include information regarding their appeal rights, as applicable, and when the

results become final. The University's Affirmative Action Officer will receive a copy of the memorandum.

10. If the Appropriate University Official's memorandum concludes that the Respondent has violated this or any other related University policy, it will also include:
  - In consultation with the Director, a decision regarding remedial measures that will be extended to the Complainant, and
  - In consultation with the Director, a decision regarding whether the Respondent will be subject to discipline. Disciplinary actions will depend on the severity of the incident. In accordance with [University Policy 102.13, Tenure Policies, Regulations, and Procedures of the University of North Carolina at Charlotte](#), if the Respondent is a covered faculty member, a decision to implement serious sanctions, as defined by Section 8 of that policy, must be supported by "clear and convincing evidence."
11. At any time prior to implementation of a disciplinary action against a Respondent, the University may, after consultation with the Director, negotiate an agreement with the Respondent to resolve the disciplinary charge against the Respondent. While resolution is not contingent on the Complainant's approval, the University will seek input from the Complainant prior to finalizing such negotiated agreement. No such negotiated agreement is effective on behalf of the University unless it has been approved by the Chancellor.

#### D. Appeals

Decisions that implicate [Section 8 of University Policy 102.13, Tenure Policies, Regulations, and Procedures of the University of North Carolina at Charlotte](#) may be challenged according to the process outlined in [Section 8 of University Policy 102.13](#).

Decisions that do not implicate [Section 8 of University Policy 102.13, Tenure Policies, Regulations, and Procedures of the University of North Carolina at Charlotte](#) may be appealed by the Complainant or the Respondent to the Chancellor within fourteen (14) calendar days following the date of issuance of the Appropriate University Official's memorandum and Final Report. The appeal must be submitted in writing to [chanoff@uncc.edu](mailto:chanoff@uncc.edu) and provide the procedural basis for the appeal. The basis for appeal is limited to procedural irregularities that affected the outcome of the matter. In response to an appeal, the Chancellor may:

- Affirm the decision in the memorandum in its entirety;
- Affirm the decision in the memorandum and reduce but not eliminate the sanction(s); or
- Remand the case to the Appropriate University Official or a different decision-maker as appropriate for further proceedings.

The Chancellor's decision is final. The parties will be simultaneously notified regarding any changes to previously reported results of the investigation as a result of the appeal.

#### E. Resolution

The Director and/or the Appropriate University Official will implement any sanctions included in a mutual resolution or final decision. For any sanctions under the purview of the Appropriate University Official, the Appropriate University Official will notify the Director when such sanctions

have been implemented and the Director is authorized to request updates related to the status of any pending sanctions.

#### IV. Recordkeeping

The University will maintain pertinent records related to each case processed under this Procedure in accordance with the UNC System Records Retention Schedule. Access to these records will be governed by applicable state and federal laws, including but not limited to the SHRA and FERPA.

#### V. Certain Non-University Community Members

The University will consider reports by or against non-University community members on a case-by-case basis, when the reported concerns impact access to University programs or activities or affect the University work environment. Although the University has limited jurisdiction to impose discipline against, or to extend supportive measures to, non-University community members, the University may pursue corrective actions within its discretion, following an appropriate investigation or in collaboration with University or local law enforcement officials. Non-University community member reports against University community members may result in disciplinary action against University community members consistent with applicable policy. When reports involve non-University community members, the University may be restricted regarding what information it can share with those individuals.

#### **History:**

- Initially enacted July 18, 2022