

**TITLE IX**  
**KNOW YOUR RIGHTS**  
**PROHIBITS**

*Sex Discrimination*  
*Domestic & Sexual Violence*  
*Sexual Harassment & Stalking*

● verbal & non verbal   ● social media   ● messaging   ● texting

Forsyth Tech  
COMMUNITY COLLEGE

Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in education. It reads:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

--Legal Citation: Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX)

Forsyth Technical Community College adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. The College does not discriminate in its admissions practices (except as permitted by law), in its employment practices, or in its educational programs or activities on the basis of sex.

As a recipient of federal financial assistance for education activities, the College is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status.

The College also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by the College policy.

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the College community on the basis of sex is in violation of the Title IX Policy.

Any person may report sex discrimination (whether or not the person reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, by video, or by email, using the contact information listed for the Title IX Coordinator. A report may be made at any time (including during non-business hours) by email and telephone.

Title IX Policy Statement Policy Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the policy or for more information, please visit Forsyth Tech Home Page or contact the Title IX Coordinator.

Individuals who believe they have experienced sex discrimination, harassment, and/or retaliation in violation of the College's policy should contact the Title IX Coordinator, Title IX Deputy Coordinator or Campus police.

For more information about Title IX, visit the [U.S. Department of Education's](#) website.



Would You Like a Cup of Tea or Not?

# Title IX Interim Policy (Sex Discrimination)

\*Note: Forsyth Technical Community College is referred to as “College” throughout this policy.

## Rationale for Policy

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As a recipient of federal financial assistance for education activities, the College is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by the College policy.

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the College community on the basis of sex is in violation of the Title IX Policy.

The College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

When the Respondent is a member of the College community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the College community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, and volunteers.

For the purpose of this policy, the College refers to “student” as an individual moved to the status of student by Admissions and eligible to register for courses, an individual registered for a credit or non-credit bearing course, an individual enrolled in a credit or non-credit bearing course, and who maintains an ongoing relationship with the College.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

Glossary (as applicable to the Title IX Policy)

<b>Advisor</b>	A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
<b>Complainant</b>	An individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
<b>Complaint (formal)</b>	A document signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that Forsyth Technical Community College investigate the allegation.
<b>Day</b>	A business day when the College is in normal operation.
<b>Directly Related Evidence</b>	Evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
<b>Confidential Resource</b>	An employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation, irrespective of Clery Act Campus Security Authority status.
<b>Education program or activity</b>	Locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized the College.
<b>Final Determination</b>	A conclusion by the standard of proof that the alleged conduct did or did not violate policy.
<b>Finding</b>	A conclusion by the standard of proof that the conduct did or did not occur as alleged as in a “finding of fact”).
<b>Formal Grievance Process</b>	“Process A,” a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
<b>Grievance Process Pool</b>	Any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
<b>Hearing Decision-maker or Panel</b>	Those who have decision-making and sanctioning authority within the College’s Formal Grievance process.

<b>Investigator</b>	The person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
<b>Mandated Reporter</b>	An employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor.
<b>Notice</b>	An employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
<b>Official with Authority (OWA)</b>	An employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.
<b>Parties</b>	The Complainant(s) and Respondent(s), collectively.
<b>Process A</b>	The Formal Grievance Process detailed below and defined above.
<b>Process B</b>	The administrative resolution procedures as detailed in Appendix D that apply only when Process A does not, as determination by the Title IX Coordinator.
<b>Relevant Evidence</b>	Evidence that tends to prove or disprove an issue in the complaint.
<b>Remedies</b>	Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Forsyth Technical Community College's educational program.
<b>Respondent</b>	An individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
<b>Resolution</b>	The result of an informal or Formal Grievance Process.
<b>Sanction</b>	A consequence imposed by the College on a Respondent who is found to have violated this policy.
<b>Sexual Harassment</b>	The umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. <a href="https://hr.unm.edu/training/sh-cr-newhire/sh_180.html">https://hr.unm.edu/training/sh-cr-newhire/sh_180.html</a>
<b>Title IX Coordinator</b>	At least one official designated by Forsyth Technical Community College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
<b>Title IX Team</b>	The Title IX Coordinator, Deputy Coordinators, Investigators, and any member of the Grievance Process Pool.

# Unlawful Discriminatory Behaviors under Title IX

**Unlawful discriminatory behaviors under Title IX include, but are not limited to:**

1. Sexual Harassment (unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature);
2. Sexual Misconduct (rape, sexual assault, sexual battery, sexual exploitation and other forms of non-consensual sexual activity);
3. Stalking (repeatedly following, harassing, threatening, or intimidating including by telephone, email, electronic communication, or social media);
4. Dating Violence (including emotional, verbal, and economic abuse without the presence of physical abuse); and
5. Retaliation (adverse employment, academic, or other actions against anyone reporting or participating in an investigation of Title IX allegations).

**The following are examples of types of conduct that may constitute sexual harassment:**

1. Inappropriate touching, patting, or pinching
2. Physical assault or coerced sexual activity
3. Demands or subtle pressure for sexual favors
4. Unwanted phone calls, texts, email, or gestures

# TITLE IX

*If you experience sexual discrimination, harassment, or violence, you have rights and you have options. Title IX and Forsyth Technical Community Colleges Resources exist to help you get the support you need. Whether you are a student, faculty member, staff member, or guest, you have the right to file a complaint through the College and/or explore other options.*

*Any person (student, faculty, staff, or guest) who believes that discriminatory practices have been engaged in based upon gender may discuss these concerns and file informal or formal complaints of possible violations of Title IX (in the case of emergencies on main campus please call x7911)*

## How to File a Title IX Complaint

### College Resources/ Reporting Stations

- Campus Police or Campus security officers are located on all campuses and is available by phone on the main campus at 7911. College law enforcement and security officers are available during operation hours.
- Student Conduct and Civility is located in the Robert L. Strickland Center, Room 2416, inside of Student Success Center and is available by phone at 336.757.3431. Forsyth Technical Community College's Title IX Coordinator is Tony McKinnon, whose office is located in Room 2416 of the Robert L. Strickland Center.
- Office of Human Resources is located in Allman Building and is available by phone at 336.734.7302. The office is staffed from 8:00 a.m. until 5:00 p.m. Monday through Friday.
- Counseling Services is located on main campuses and is available by phone at 336.757.3431. The Centers are staffed from 8:00 a.m. until 5:00 p.m. Monday through Friday.
- Shugarts Womens Center is located in room 206 in Hauser Hall. This office is staffed from 8:00am until 5:00pm. Monday through Friday.

# Forsyth Technical Community College

## Title IX/Program Awareness Training

The college's sexual misconduct-related training for faculty, staff, and students addresses numerous issues, including but not limited to the following:

- Types of sexual misconduct
- Resources for victims of sexual misconduct
- The College's Sexual Misconduct Policy and Procedures
- Reporting sexual misconduct
- Bystander intervention
- Responding to complaints
- Avoiding retaliation
- Maintaining a respectful work environment

Bystander intervention Training for employees only can be found inside of the Safe Colleges Training Program under the Social and Behavioral section within TechLink.

Recognitions of signs of abusive behavior training for employees only can be found inside of the Safe Colleges Training Program under the Social and Behavioral section within TechLink.

### Training Materials

The following link offers training materials for the College's Title IX Team inclusive of training and certification events, select webinars, and online trainings provided by the Association of Title IX Administrators (ATIXA).

<https://atixa.org/2020-regulations-requirement-posting-of-training-materials/>

# Preventing Date Rape and Sexual Assault

First, remember that date and acquaintance rape does occur! Most students who are raped or sexually assaulted don't report it. They fear publicity, blame, disbelief or reprisals – especially if they know their attacker(s). Dates and acquaintances commit most college sexual assaults.

## Protect yourself:

- Know whom you are dating before the date. If this person is somewhat of a stranger, stay in well-populated areas.
- Avoid those people who ignore you, pretend not to hear you, talk over you or are hostile in disagreement.
- Avoid those people who stare at the sexual parts of your body and invade your personal space by unwanted touching or making you feel uncomfortable.
- Let a friend or family member know where you will be on the date and what time you plan to return.
- Don't use drugs or alcohol on dates.
- Clearly communicate your sexual limits to your partner. Say “no” forcefully if pressured for unwanted sex.
- If “no” doesn't work, try to get away by running and screaming for help.
- If you don't feel safe walking to your vehicle, contact Public Safety or walk with classmates.

## Know what to do if you are sexually assaulted:

- Report the crime to Campus Police or a law enforcement agency.
- Get medical attention. The physician should collect specimens and make detailed notes about the physical evidence, such as bruises, cuts, torn clothing and traces of semen. You should be tested later for pregnancy, sexually transmitted diseases and HIV.
- Don't wash or change clothes – you could destroy evidence.
- Contact a rape crisis or counseling center.
- Forsyth Tech prohibits sexual violence or any other criminal offenses against its campus community to include students, employees and visitors. Victims of any crimes are encouraged to report it to Campus Police or local law enforcement in their jurisdiction.
- Crimes reported to Campus Police will be fully investigated with additional internal or external assistance, if needed.
- Definitions:
  - Domestic violence – asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
  - Dating violence – violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
  - Stalking – a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his or others' safety, or to suffer substantial emotional distress.
  - Rape – The new definition of rape is: “The penetration, no matter how slight, of the vagina or anus with anybody part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”

# Self-Defense Classes

- R.A.D. (Rape Aggression Defense) Systems Inc. is a program specifically designed for women who are willing to consider defense as a viable option, in situations where their life is in jeopardy.
- Rape Aggression Defense means “Defense Against Abduction.”
- R.A.D. is a program that is designed to help women overcome the effects of sexual harassment and sexual violence by teaching assertiveness, awareness, risk reduction, risk recognition, avoidance and physical defense strategies.
- The class is approximately nine hours long and includes both instruction and demonstration/practice of basic self-defense techniques.
- Students will be given an opportunity to do an optional simulation scenario upon completion of the course. We do not certify the students upon completion of the class.
- If you want to participate in a class, or you have any questions, please contact us via telephone at 336.734.7243 or email Guillermo Vargas at [gvargas@forsythtech.edu](mailto:gvargas@forsythtech.edu). You may also sign up in the Campus Police Office.
- You will need to include your full name, address, telephone number, email address and if you have a daughter over the age of 16 that you want to participate with you.
- Keep in mind that class space is limited and there may not be space available. However, we will keep your contact information on file and as we schedule more classes, we will try to get to everyone. If you are chosen to participate in a class, you will receive a confirmation letter either by mail or email.

# Important Guidelines When Reporting a Crime or Incident on Campus

Listed below is important information that will assist you here at the college and in your everyday activities when reporting information to law enforcement:

1. **Location of Incident** – exact location if known, building, room number, parking lot, direction of travel, etc.
2. **What is the emergency or purpose for assistance** – medical assistance problem of the victim, conscious or not etc., suspicious person/package, vehicle unlock, motorist assistance, etc. Public Safety/law enforcement need to know what the incident or problem is so we can act/respond accordingly.
3. **Description of an individual** – race, gender, approximate height, approximate weight, clothing, special features (ex. moustache, bald head, accent, any distinguishing feature that will help identify someone).
4. **Description of a vehicle** – make, model, color, tag number, and distinguishing feature that will help identify the vehicle (ex. stickers, missing hubcap, loud muffler, etc.).
5. **Campus Police/Law Enforcement response** – officer(s) arriving at the scene of emergency/incident need certain information. If there is a suspect in an incident, the officer(s) need information described above, 1 – 4. This information can then be passed onto other Public Safety personnel/other law enforcement agencies to assist in the locating process.
6. **Reporting person/caller response** – It is very important that steps 1 – 4 are followed. Public Safety at times will need to speak with the individual reporting an emergency/incident or the individual who actually observed what happened. Often there will be a report that will be completed by the officer(s), and the information needed for the report has to come from the reporting person or an actual witness. Second-hand information, at times, may help, but information gets distorted after being passed from person-to-person. It is also very important to report the emergency/incident immediately and not wait until you exit campus or wait days/weeks later.

The goal of the Forsyth Technical Community College Campus Police Department is to provide service, safety and security to the entire college community.

# Crime Awareness and Campus Security Act of 1990/ Clery Act

In accordance with the Campus Security/Clery Act, U.S. Public Law 101-542, the following information is submitted for Forsyth Technical Community College.

- The Campus Security/Clery Act was amended in 2000 to require schools beginning in 2003 to notify the campus community about where public “Megan’s Law” information about registered sex offenders on campus could be obtained.
- This information can be obtained at the North Carolina State Bureau of Investigations website at: <http://sexoffender.ncsbi.gov>. Go to the North Carolina Sex Offender & Public Protection Registry and follow the listed instructions.
- If there are any questions, please contact the Forsyth Technical Community College Campus Police Department.

## Administrative Contact Information

### Title IX Coordinator

Tony McKinnon serves as the Title IX Coordinator and oversees coordination and implementation of Forsyth Technical Community College’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation are prohibited under this policy.

### Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest, reports of misconduct, or discrimination by the Title IX Coordinator, contact Dr. Jewel Cherry, the College’s Vice President of Equity and Inclusion at [Jcherry@forsytech.edu](mailto:Jcherry@forsytech.edu) or 336-734-7297. Concerns of bias, a potential conflict of interest, reports of misconduct or discrimination by any other Title IX Team member should be reported to the Title IX Coordinator.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to the Office of Title IX:

<p><b>Title IX Coordinator</b></p> <p><b>Tony McKinnon</b> MS LCAS-A Code of Conduct Officer/ Title IX Coordinator</p> <p>Forsyth Technical Community College Main Campus 2100 Silas Creek Parkway Winston-Salem, NC 27103-5197 USA</p> <p>Office: 336-757-3431 Cell: 336-918-8196 Fax: 336-757-327</p> <p><b>Duties and Responsibilities:</b> Monitoring and oversight of the overall implementation of Title IX Compliance at the College, including coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the College community.</p>	<p><b>Title IX Deputy Coordinators</b></p> <p><b>Rachel Schroeder</b> Human Resources Manager</p> <p>Forsyth Technical Community College Main Campus 2100 Silas Creek Parkway Winston-Salem, NC 27103-5197 USA</p> <p>Office: 336-734-7646 Email: <a href="mailto:rschroeder@forsytech.edu">rschroeder@forsytech.edu</a></p>
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## Title IX Investigators

The College has determined that the College President, and Vice Presidents are Officials with Authority (OWA) to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members listed above, these OWA listed below may also accept notice or complaints on behalf of the College.

The College has also classified all employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

<p><b>Tim Sands</b> Liaison, Stokes County/Stokes Early College Stokes County Center-office 219</p>	<p><b>Walt Braxton</b> Main Campus 2100 Silas Creek Parkway Information Desk RLS 336-734-7900</p>	<p><b>Pamela Glenn, MS</b> Forsyth Technical Community College West Campus, Room-4C (336) 734-7763</p>	<p><b>Kirsten R. Seamster</b> Director Transportation Center 2100 Silas Creek Parkway   Winston-Salem, NC 27103 336.757.3396</p>
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1165 Dodge town Rd. Walnut Cove, NC 27052			
<b>Richard Watkins</b> Academic Counselor Student Success Center/Forsyth Technical Community College 2100 Silas Creek Parkway Winston Salem, NC 27103 (336) 757-3622 Office	<b>Georgette Chin</b> Technology Building room 505 Forsyth Technical Community College 2100 Silas Creek Parkway 336-734-7475	<b>Dwaine Davis</b> Technology Building room 505 Forsyth Technical Community College 2100 Silas Creek Parkway/336-734-7475	<b>Forsyth Tech Campus Police</b> www.forsythtech.edu/stu dent-services/campus- safety/ x7234- nonemergency/x7911- emergency

Inquiries may be made externally to:

<b>Office for Civil Rights (OCR)</b>  U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-1100 Customer Service Hotline #:  1-800-421-3481 Fax: 202-453-6012 TDD: 877-521-2172  Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a> <a href="http://www.ed.gov/ocr">http://www.ed.gov/ocr</a>	<b>North Carolina Office for Civil Rights (OCR):</b>  1 S. Wilmington Street Raleigh, NC 27601  919-508-1808 Fax: 919-508-1814  <a href="https://www.ncdot.gov/about-us/board-offices/offices/civil-rights/Pages/default.aspx">https://www.ncdot.gov/about-us/board-offices/offices/civil-rights/Pages/default.aspx</a>  1511 Mail Service Center (mailing address) Raleigh, NC 27699-1511	<b>North Carolina Department of Justice</b>  Main Campus 114 West Edenton Street Raleigh, NC 27603  919-716-6400 Fax: 919-716-6750
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## Notice/Complaints of Sex Discrimination, Harassment, and/or Retaliation

Notice or complaints of sex discrimination, harassment, and/or retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator (or deputy/deputies/Officials with Authority as noted above). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other Title IX Team Member, or OWA listed above.
2. Report online, using the Title IX link titled “how to report”. Anonymous reports are accepted but can give rise to a need to investigate. The College provides supportive measures to all Complainants, which may be impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.
3. Report to any supervisor and/or instructor. The information will be relayed to the appropriate College authorities.

## Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College’s ability to provide the supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

<ul style="list-style-type: none"> <li>Referral to counseling, medical, and/or other healthcare services</li> </ul>	<ul style="list-style-type: none"> <li>Altering work arrangements for employees or student-employees</li> </ul>	<ul style="list-style-type: none"> <li>Academic support, extensions of deadlines, or other course/program-related adjustments</li> </ul>
<ul style="list-style-type: none"> <li>Referral to community-based service providers</li> </ul>	<ul style="list-style-type: none"> <li>Safety planning</li> </ul>	<ul style="list-style-type: none"> <li>Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders</li> </ul>
<ul style="list-style-type: none"> <li>Visa and immigration assistance</li> </ul>	<ul style="list-style-type: none"> <li>Providing campus safety escorts</li> </ul>	<ul style="list-style-type: none"> <li>Class schedule modifications, withdrawals, or leaves of absence</li> </ul>
<ul style="list-style-type: none"> <li>Student financial aid counseling</li> </ul>	<ul style="list-style-type: none"> <li>Providing transportation accommodations</li> </ul>	<ul style="list-style-type: none"> <li>Increased security and monitoring of certain areas of the campus</li> </ul>
<ul style="list-style-type: none"> <li>Education to the institutional community or community subgroup(s)</li> </ul>	<ul style="list-style-type: none"> <li>Implementing contact limitations (no contact orders) between the parties</li> </ul>	<ul style="list-style-type: none"> <li>Any other actions deemed appropriate by the Title IX Coordinator</li> </ul>

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

## Emergency Removal

The College can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavior Intervention Team (also known as BIT) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

## Promptness

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the College's procedures will be delayed, the College provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## Privacy

Every effort is made by the College to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

For the purpose of this policy, privacy and confidentiality have distinct meanings.

Privacy means that information related to a complaint will be shared with a limited number of College employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the College's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies.

Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The College has designated individuals who have the ability to have privileged communications as Confidential Resources as noted in the glossary.

When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

The College reserves the right to designate which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to the College's Police, Curriculum Education Services, Wellness Services, and the Behavior Intervention Team. Information will be shared as necessary with Title IX Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

## **Confidentiality and mandated reporting are addressed more specifically in section Jurisdiction of Forsyth Technical Community College**

This policy applies to the education programs and activities of the College, to conduct that takes place on the campus or on property owned or controlled by the College, at college-sponsored events, or in buildings owned or controlled by the College's recognized student organizations. The Respondent must be a member of the College's community for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial interest to the College.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial interest to the College includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;

3. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that is detrimental to the educational interests or mission of Forsyth Technical Community College.

If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the College community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from the College's property and/or events.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

## **Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

## Online Harassment and Misconduct

The policies of Forsyth Technical Community College are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use the College's networks, technology, or equipment.

Although the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the College community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.

Public Recipients: Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the College's control (e.g., not on College's networks, websites, or between College email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

# DISABILITY DISCRIMINATION AND ACCOMMODATION POLICY

Forsyth Technical Community College is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohi discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

Accessibility Services is responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability for students.

Grievances related to disability status and/or accommodations will be addressed using the procedures below. For details relating to disability accommodations in the College's resolution process, see previous section.

## **a. Students with Disabilities**

Forsyth Technical Community College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the College.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact Accessibility Services, located within Student Success Services Suite 2414 in The Robert Strickland Building

The Accessibility Services dept. reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's needs and academic program(s) in accordance with the College's applicable policies.

### **b. Employees with Disabilities**

Pursuant to the ADA, the College will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the College.

An employee with a disability is responsible for submitting a request for an accommodation to the Human Resources manager and providing necessary documentation. The Human resources manager will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

## **SEXUAL HARASSMENT POLICY**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the state of North Carolina regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

1. Quid Pro Quo:
  1. an employee of the College,
  2. conditions the provision of an aid, benefit, or service of the College,

3. on an individual's participation in unwelcome sexual conduct; and/or
4. Sexual Harassment:
  - unwelcome conduct,
  - determined by a reasonable person,
  - to be so severe, and
  - pervasive, and,
  - objectively offensive,
  - that it effectively denies a person equal access to the College's education program or activity.
5. Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
6. Sexual assault, defined as:
  - Sex Offenses, Forcible:
  - Any sexual act directed against another person,
  - without the consent of the Complainant,
  - including instances in which the Complainant is incapable of giving consent.
7. Sex Offenses, Non-forcible:
8. Incest:
  - Non-forcible sexual intercourse,
  - between persons who are related to each other,
  - within the degrees wherein marriage is prohibited by North Carolina law.
9. Statutory Rape:
10. Non-forcible sexual intercourse,
11. with a person who is under the statutory age of consent of North Carolina.
12. Dating Violence, defined as:
  - violence,
  - based on sex,
  - committed by a person,
  - who is in or has been in a social relationship of a romantic or intimate nature with the Complainant?
    1. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
    2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    3. Dating violence does not include acts covered under the definition of domestic violence.
13. Domestic Violence, defined as:
  - violence,
  - based on sex,
  - committed by a current or former spouse or intimate partner of the Complainant,
  - by a person with whom the Complainant shares a child in common, or
  - by a person who is cohabiting with, or has cohabited with, the Complainant as a spouse or intimate partner, or

- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabiting must be current or former spouses or have an intimate relationship.

2. Stalking, defined as:

- engaging in a course of conduct,
- based on sex,
- directed at a specific person, that
  - would cause a reasonable person to fear for the person's safety, or
  - the safety of others; or
  - Suffer substantial emotional distress.
    1. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
    3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
    4. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways; therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the Forsyth Technical Community College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, and masochism (BDSM) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the College additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant’s actual or perceived membership in a protected class.

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being

exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the room or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy.
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity
- Bullying, defined as:
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
  - That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

# UNETHICAL RELATIONSHIPS/ CONSENSUAL RELATIONSHIPS POLICY

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcomed may, at some point in the relationship, become unwelcomed.

The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. However, for the personal protection of members of this community, relationships are prohibited in which power differentials and professional responsibility are inherent.

Employees may refer to the College's Employee Handbook page 52, for further details regarding personal relationships with others in the College community/ maintaining personal boundaries.

## Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The College and any member of the College community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

and procedure. Filing a complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, the College vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **Mandated Reporting**

All College employees (faculty, staff, and administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the College for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus/virtual (employees) licensed professional counselors
- Off-campus/virtual (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

College licensed professional counselors associated with the College's Counseling Services (students) are available to help free of charge and may be consulted on an emergency basis during normal business hours as outlined below.

College employees who are confidential and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their service participant or client.

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

#### c. Mandated Reporters and Formal Notice/Complaints

All employees the College (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, events, marches, or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.

Supportive measures may be offered as the result of such disclosures without formal action by the College.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of the College's policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the College is

technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

## **When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process,

acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint later. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

## **Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy, are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official investigating can be subject to discipline under the College's policy.

## Amnesty for Complainants and Witnesses

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: The College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, the College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

Employees: The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

## Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

1. All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;

2. Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
3. VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
4. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with campus police regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student services/student conduct staff, campus law enforcement, local police, coaches, athletic directors, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

## Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. The College will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at a local hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid showering, hng, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container.
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence. During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.



# INTERIM RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY

## (KNOWN AS PROCESS “A ”)

### 1. Overview

The College will act on any formal or informal notice/complaint of violation of the policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as “Process A.”

The procedures below apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

If other policies are invoked, such as policies on protected class harassment or discrimination above, the procedures will be applicable to the resolution of such offenses, known as “Process B.”

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

### 2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the College needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint);

The College uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

### 3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically one to five business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue based on the nature of the complaint.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit the College’s authority to address a complaint with an appropriate process and remedies.

### 2. Risk Assessment Tool for Behaviors of Concern

In many cases, the Title IX Coordinator may determine that a risk assessment tool for behaviors of concern should be conducted by the Behavior Intervention Team ( ) as of the initial assessment. Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A

This assessment can aid in critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety.
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer institution about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order is needed.

The risk assessment tool requires specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other members. The risk assessment authorized by the Title IX Coordinator should occur in collaboration with the . Where a risk assessment is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

For the purpose of this policy, the risk assessment tool is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A risk assessment assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

#### 1. Dismissal (Mandatory and Discretionary)

These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45. The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by the Forsyth Technical Community College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the College; or
3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### 4. Counterclaims

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

## 5. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews and hearings, within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

The College may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with College policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

## **Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney. Where applicable under state law or College policy, Advisors or attorneys are permitted to fully represent their advisees or clients in resolution proceedings, including all meetings, interviews, and hearings. Although the College prefers to hear from parties directly, in these cases, parties are entitled to have evidence provided by the chosen representatives.

### **c.) Advisors in Hearings/College-Appointed Advisor**

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witness.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

### **d.) Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

Where applicable under state law or College policy, Advisors or attorneys are permitted to fully represent their advisees or clients in resolution proceedings, including all meetings, interviews, and hearings. Although the College prefers to hear from parties directly, in these cases, parties are entitled to have evidence provided by their chosen representatives.

e.) Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and College's policies and procedures.

f.) Advisor Violations of the College's Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address the College's officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

g.) Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The College also provides a consent form that authorizes the College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before College is able to share records with an Advisor.

If a party requests that all communication be made through their attorney or Advisor, the College will not comply with that request. The College will engage in communicate directly with each party.

#### h.) Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

#### i.) Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend the College's meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### j.) Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least three (3) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least three (3) business days before the hearing.

#### k.) Assistance in Securing an Advisor

Parties may choose their own Advisors. The College does not endorse any attorney or legal team.

Following are resources for Complainants and Respondents.

Legal Aid of North Carolina/Winston-Salem NC  
102 W 3rd St #460, Winston-Salem, NC 27101  
(866) 219-5262  
[legalaidnc.org](http://legalaidnc.org)

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>

## 6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the College's policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the expectation of information the parties agree not to disclose related to Informal Resolution, discussed below. The College encourages parties to discuss any sharing of information with their Advisors before doing so.

### a. Informal Resolution

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation. When the parties agree to resolve the matter through an alternate resolution mechanism s described below, including mediation, usually before a formal investigation takes place, see discussion below in b., below.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see below in c., below.
- 

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

#### b. Alternate Resolution Mechanism

Alternate Resolution is an informal mechanism by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties.
- The parties' motivation to participate;
- Civility of the parties;
- Results of a risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

#### c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the College's policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

#### d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the College. Negotiated Resolutions are not appealable.

### 7. Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators ("the Pool") to carry out the process. This pool is comprised of the College's Title IX Investigators and Deputy Coordinators. Other pool members may be included as deemed appropriate by the Title IX Coordinator. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

#### a. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternate Resolution, if appropriately trained in appropriate resolution modalities

- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker rec

#### b. Pool Member Appointment and Membership

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. This Pool may undergo an application and/or interview/selection process. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

Pool members are usually appointed to semester-to-semester basis. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

#### c. Pool Member Training

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the College's Title IX Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to investigate and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are College employees), and Chairs.

#### 8. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the College’s policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- The College’s VAWA information
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties' college-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## 9. Resolution Timeline

The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as a estimate of how much additional time will be needed to complete the process.

## 10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within three (3) business days of determining that an investigation should proceed.

## 11. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Benita Clark, the Vice President, Human Resources and College Safety.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations

may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

## 12. Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## 13. Delays in the Investigation Process and Interactions with Law Enforcement

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The College's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## 14. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback.
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

## 15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Microsoft Teams, Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews, if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

## 16. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

## 17. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## 18. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker depending on the context and nature of the alleged misconduct.

## 19. Hearing Decision-maker Composition

The College will designate a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

## 20. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the College uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the policy as alleged.

## 21. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker based on demonstrated bias. This must be raised with the Title IX Coordinator at least three (3) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Notification that parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this policy is not in good standing to graduate.

## 22. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

### 23. Pre-Hearing Preparation

The Chair or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least seven (7) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least three (3) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least three (3) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

#### 24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings. The pre-hearing meeting(s) will not be recorded.

#### 25. Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, and the parties (or three (3) organizational representatives when an organization is the Respondent). Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

## 26. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

## 27. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Chair and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

## 28. Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## 29. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it, (and state it if it has not been stated aloud) and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements explore arguments regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

## 30. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The

Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a college-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### 31. Recording Hearings

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### 32. Deliberation, Decision-making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the Office of Student Conduct will recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or recommendations.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within three (3) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### 33. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome will then be reviewed by legal counsel, as appropriate. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within seven (7) business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' college-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

#### 34. Statement of the Rights of the Parties

#### 35. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination,

harassment, and/or retaliation

- The need for sanctions/responsive actions to prevent the future recurrence of

discrimination, harassment, and/or retaliation

- The need to remedy the effects of the discrimination, harassment, and/or

retaliation on the Complainant and the community

- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

#### a. Student Sanctions: Examples

The following are sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any Forsyth Technical Community College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Required Counseling:** A mandate to meet with and engage in either college-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Proion:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions if the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period. Terms of the proion will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on proion through the remainder of their tenure as a student at Forsyth Technical Community College.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, subject to any applicable expungement policies.
- **Withholding Diploma:** The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of the College's policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including College's registration) for a specified period.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

#### b. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in sex/gender-based harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Proion
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of faculty rank progression
- Assignment to supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive action as deemed appropriate.

### 36. Withdrawal or Resignation While Charges Pending

a. Students: If a student has an allegation pending for violation of the Title IX Policy, the College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.

However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the College. Such exclusion applies to all campuses of the College. A hold will be placed on their ability to be readmitted. They may also be barred from College property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to College unless and until all sanctions have been satisfied.

During the resolution process, the College may put a hold on a responding student's transcript or place a notation on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

b. Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.

However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Title IX Coordinator will reflect that status.

All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### 37. Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

A three-member appeal panel chosen from the Pool will be designated by the Title IX. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. A voting Chair of the Appeal panel will be designated.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### a. Grounds for Appeal

Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds on this policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Panel will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence OR the clear and convincing evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' college-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

#### c. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

#### 38. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

### 39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

#### 40. Recordkeeping

The College will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  1. The basis for all conclusions that the response was not deliberately indifferent;
  2. Any measures designed to restore or preserve equal access to the College's education program or activity; and
  3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

#### 41. Disabilities Accommodations in the Resolution Process

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.

Anyone needing such accommodations or support should contact the Director of Disability Support Services who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### 42. Revision of this Policy and Procedures

This policy and procedures supersede any previous policy(ies) addressing sex discrimination, sexual harassment, sexual misconduct, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This policy and procedures are effective August 14, 2020.

## **PREGNANT AND PARENTING POLICY GLOSSARY (as applicable to the Title IX Policy)**

Caretaking	Caring for and providing for the needs of a child.
Medical Necessity	Determination made by a health care provider (of the student's choosing) that a certain course of action is in the patient's best health interests.
Parenting	The raising of a child by the child's parents in the reasonably immediate postpartum period.
Pregnancy and Pregnancy-Related Conditions	Include (but are not limited to) pregnancy, childbirth, false pregnancy, termination of pregnancy, conditions arising in connection with pregnancy, and recovery from any of these conditions.
Pregnancy Discrimination	Treating an individual affected by pregnancy or a pregnancy-related condition less favorably than similar individuals not so affected, and includes a failure to provide legally mandated leave or accommodations.
Pregnant Student/Birth-Parent	The student who is or was pregnant. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.
Pregnant Student/Birth-Parent	(For the purposes of this policy) refers to changes in the academic environment or typical operations that enables pregnant students or students with pregnancy-related conditions to continue to pursue their studies and enjoy the equal benefits of the College.
Reasonable Accommodations	(For the purposes of this policy) refers to changes in the academic environment or typical operations that enables pregnant students or students with pregnancy-related conditions to continue to pursue their studies and enjoy the equal benefits of the College.

## **COMPLIANCE REPORTING**

Any member of the Forsyth Technical Community College community may report a violation of this policy to any supervisor, manager, or to the Title IX Coordinator. All mandated reporters are responsible for promptly forwarding such reports to the Title IX office.

### **Administrative Contact Information**

The Title IX Coordinator is responsible for overseeing complaints of discrimination involving pregnant and parenting students. Additionally, the Title IX Team is tasked with supporting these duties. Contact information is available in section 6 for the Title IX Coordinator and Title IX Team.

Complaints may be filed online, using the form available, at [www.ed.gov/ocr/complaintintro.html](http://www.ed.gov/ocr/complaintintro.html).

## POLICY STATEMENT

Forsyth Technical Community College is committed to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972 (Title IX). Sex discrimination, which can include discrimination based on pregnancy, marital status, or parental status, is prohibited and illegal in admissions, educational programs and activities, hiring, leave policies, employment policies, and health insurance coverage.

The College hereby establishes a policy and associated procedures for ensuring the protection and equal treatment of pregnant individuals, persons with pregnancy-related conditions, and new parents. Under the Department of Education's (DOE) Title IX regulations, an institution that receives federal funding "shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom."

According to the DOE, appropriate treatment of a pregnant student includes granting the student leave "for so long a period of time as is deemed medically necessary by the student's physician," and then effectively reinstating the student to the same status as was held when the leave began. This generally means that pregnant students should be treated by the College the same way as someone who has a temporary disability, and will be given an opportunity to make up missed work wherever possible. Extended deadlines, make-up assignments (e.g., papers, quizzes, tests, and presentations), tutoring, independent study, online course completion options, and incomplete grades that can be completed at a later date, should all be employed, in addition to any other ergonomic and assistive supports typically provided by Disability Services.

To the extent possible, the College will take reasonable steps to ensure that pregnant students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same course catalog that was in place when the leave began. The Title IX Coordinator has the authority to determine that such accommodations are necessary and appropriate, and to inform faculty members of the need to adjust academic parameters accordingly.

As with disability accommodations, information about pregnant students' requests for accommodations will be shared with faculty and staff only to the extent necessary to provide the reasonable accommodation. Faculty and staff will regard all information associated with such requests as private and will not disclose this information unless necessary. Administrative responsibility for these accommodations lies with the Title IX Coordinator, who will maintain all appropriate documentation related to accommodations.

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave.

Students are encouraged to work with their faculty members and the College's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

## SCOPE OF POLICY

This policy applies to all aspects of the College's programs, including, but not limited to, admissions, educational programs and activities, extracurricular activities, hiring, leave policies, employment policies, and health insurance coverage.

### Reasonable Accommodations of Students Affected by Pregnancy, Childbirth, or Related Conditions

1. The College and its faculty, staff, and other employees will not require students to limit their studies as the result of pregnancy or pregnancy-related conditions.
2. The benefits and services provided to students affected by pregnancy will be no less than those provided to students with temporary medical conditions.
3. Students with pregnancy-related disabilities, like any student with a short-term or temporary disability, are entitled to reasonable accommodations so that they will not be disadvantaged in their courses of study or research and may seek assistance from the Title IX office.
4. No artificial deadlines or time limitations will be imposed on requests for accommodations, but the College is limited in its ability to impact or implement accommodations retroactively.
5. Reasonable accommodations may include, but are not limited to:
  1. Providing accommodations requested by a pregnant student to protect the health and safety of the student and/or the pregnancy (such as allowing the student to maintain a safe distance from hazardous substances);
  2. Making modifications to the physical environment (such as accessible seating);
  3. Providing mobility support;
  4. Extending deadlines and/or allowing the student to make up tests or assignments missed for pregnancy-related absences;
  5. Offering remote learning options;
  6. Excusing medically necessary absences (this must be granted, irrespective of classroom attendance requirements set by a faculty member, department, or division);
  7. Implementing incomplete grades for classes that will be resumed at a future date; or
  8. Allowing breastfeeding students reasonable time and space to pump breast milk in a location that is private, clean, and reasonably accessible. Bathroom stalls do not satisfy this requirement.

Nothing in this policy requires modification to the essential elements of any academic program. Pregnant students cannot be channeled into an alternative program or school against their wishes.

#### Modified Academic Responsibilities Policy for Parenting Students

1. Students with child caretaking/parenting responsibilities who wish to remain engaged in their coursework while adjusting their academic responsibilities because of the birth or adoption of a child or placement of a foster child may request an academic modification period during the same semester the child entered the home. Extensions may be granted when additional time is required by medical necessity or extraordinary caretaking/parenting responsibilities.
2. During the modification period, the student's academic requirements will be adjusted, and deadlines postponed as appropriate, in collaboration among the Title IX office, the student's academic advisor, and the appropriate academic department(s).
3. Students seeking a period of modified academic responsibilities may consult with their Academic Advisor or with the Title IX office to determine appropriate academic accommodations requests. The Title IX office will communicate all requests under this policy to students' academic advisors and coordinate accommodation-related efforts with the advisors unless the students specifically requests that their advisors be excluded. Students are encouraged to work with their advisors and faculty members to reschedule course assignments, lab hours, examinations, or other requirements, and/or to reduce their overall course load, as appropriate, once authorization is received from the Title IX office. If, for any reason, caretaking/parenting students are not able to work with their advisors/faculty members to obtain appropriate modifications, students should alert the Title IX office as soon as possible, and the office will help facilitate needed accommodations and modifications.
4. In timed degree, certification or credentialing programs, students who seek modifications upon the birth or placement of their child will be allowed an extension to prepare for and take preliminary and qualifying examinations, and an extension toward normative time to degree while in candidacy, to the extent those deadlines are controlled by the College. Extensions may be granted when additional time is required by medical necessity or extraordinary caretaking/parenting responsibilities.
5. Students can request modified academic responsibilities under this policy regardless of whether they elect to take a leave of absence.
6. While receiving academic modifications, students will remain registered and retain benefits accordingly.

#### Student-Employee Leave

All student-employees will be entitled to the protections of the Family and Medical Leave Act. Pregnancy and related conditions will be treated as any other temporary disability for job purposes, including leave and benefits.

#### Retaliation and Harassment

Harassment of any member of the College community based on sex, gender identity, gender expression, pregnancy, or parental status is prohibited.

Faculty, staff, and other College employees are prohibited from interfering with students' right to a period of leave, seek reasonable accommodation, or otherwise exercise their rights under this policy.

Faculty, staff, and other College employees are prohibited from retaliating against students for exercising the rights articulated by this policy, including imposing or threatening to impose negative educational outcomes because students request leave or accommodation, file a complaint, or otherwise exercise their rights under this policy.

### Dissemination of the Policy and Training

A copy of this policy will be made available to faculty, staff, and employees in annually required training and posted on the College's website. The College will alert all new students about this policy and the location of this policy as part of orientation. The Title IX office will make educational materials available to all members of the College community to promote compliance with this policy and familiarity with its procedures.

### Pregnancy and Parenting Students' Resources

#### Department of Education Resources

- The Pregnancy Discrimination Act (PDA) is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination based on pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. More information may be viewed on the U.S. Equal Employment Opportunity Commission website at <https://www.eeoc.gov/laws/statutes/pregnancy.cfm>
- Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §1681 et seq., is a Federal civil rights law that prohibits discrimination based on sex—including pregnancy and parental status—in educational programs and activities.

### Lactation Support Policy

The College promotes supports for working parents with the transition back to work and school following childbirth. This includes support of nursing mothers wishing to express breast milk periodically during the work/school day. In accordance with provisions of the federal Fair Labor Standards Act (FLSA), upon request, suitable space must be provided for lactation support. Information about the NC State Government policy can be found via the Office of State Human Resources website [https://files.nc.gov/ncoshr/documents/files/Lactation\\_Support\\_Policy.pdf](https://files.nc.gov/ncoshr/documents/files/Lactation_Support_Policy.pdf)

## APPENDIX A: POLICY EXAMPLES

### Examples of Sexual Harassment

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised, or a bad grade is threatened.
- A student repeatedly sends graphic, sexually oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- A student has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, the student has noticed that their professor, pays them a lot more attention. The student is sexually attracted to the professor and believes the attraction is mutual. The student decides to act on the attraction. One day, the student visits the professor during office hours, and after a long conversation about being non-binary, the student kisses the professor. The professor is taken aback, stops the kiss, and tells the student not to do that. The professor explains to the student that they are not interested in the student sexually or romantically. The student takes it hard, crying to the professor about how hard it is to find someone who is interested in them now based on their identity. The professor feels sorry for the student and softens the blow by telling them that no matter whether they like the student or not, faculty-student relationships are prohibited by the College. The student takes this as encouragement. One night, the student goes to a gay bar some distance from campus and sees the student at the bar. The student tries to buy the professor a drink and, again, tries to kiss the professor. The professor leaves the bar abruptly. The next day, the student makes several online posts that out the professor as gay and raise questions about whether they are sexually involved with students. The professor contacts the Title IX Office and alleges sexual harassment by the student.

## Examples of Stalking

- Students A and B were “friends with benefits”. Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor’s car, both on-campus and at home. Asked again to stop, the student stated by email, “You can ask me to stop, but I’m not giving up. We are meant to be together, and I’ll do anything to make you have the feelings for me that I have for you.” When the tutor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. If I can’t have you, no one will.”

## Examples of Sexual Assault

- Students A and B meet at a party. They spend the evening dancing and getting to know each other. Student A convinces Student B to come up to their room. From 11:00 p.m. until 3:00 a.m., Student A uses every line they can think of to convince Student B to have sex, but Student B adamantly refuses. Despite her clear communications that Student B is not interested in doing anything sexual, Student A keeps questioning about religious convictions and accusations of being “a prude.” Student A brings up several rumors that were heard about how Student B performed oral sex on a number of other guys. Finally, it seems to Student A that Student B’s resolve is weakening, and convinces Student B to “jerk him off” (hand to genital contact). Student B would have never done it but for Student A’s incessant advances. Student A feels that Student B was successfully seduced and that Student B wanted to do it all along, but was playing shy and hard to get. Why else would Student B have come up to their room alone after the party? If Student B really didn't want it, they could have left.
- Student A is a junior. Student B is a sophomore. Student A comes to Student B’s residence hall room with some mutual friends to watch a movie. Student A and B, who have never met before, are attracted to each other. After the movie, everyone leaves, and Students A and B are alone. They hit it off, soon become more intimate, and start to make out. Student A verbally expresses their desire to have sex with Student B. Student B, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Student A takes Student B by the wrist over to the bed, lays down, undresses, and begins to have intercourse with Student B, Student B has a severe

flashback to childhood trauma. Student B wants to tell Student A to stop but cannot. Student B is stiff and unresponsive during the intercourse. Although sex has progressed for sexual minutes, Student B requests Student A to stop. Student A refuses to do so.

- Students A and B are at a party. Student A is not sure how much Student B has been drinking, but is pretty sure it's a lot. After the party, Student A walks Student B to their apartment and ultimately engage in sexual activity. Student A asks Student B asks if they are really up to this, and Student B says yes. They remove each other's clothes, and they end up in bed. Suddenly, Student B runs for the hroom. Upon returning, Student's B face is pale, resulting from potential vomiting. Student B gets back into bed, and they begin to have sexual intercourse. Student A is having a good time, though can't help but notice that Student A seems pretty groggy and passive, and thinks Student B may have even passed out briefly during the sex, but came to again. When Student A runs into Student B the next day, and thanks for the great night. Student B remembers nothing and decides to make a report to the Dean.

#### Examples of Retaliation

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## **APPENDIX B: AN ATIXA FRAMEWORK FOR INFORMAL RESOLUTION (IR)**

The College utilizes the professional guidance of the Association of Title IX Administrators (ATIXA) for its Informal Resolution (IR) process.

ATIXA has framed a process for IR that includes:

1. A response based on supportive measures; and/or
2. A response based on a Respondent accepting responsibility; and/or
3. A response based on alternative resolution, which could include various approaches and facilitation of dialogue.

Alternative resolution approaches like mediation, restorative practices, transformative justice, etc., are likely to be used more and more often by colleges and universities. ATIXA does not endorse these approaches as better or worse than other formal or informal approaches.

ATIXA believes that if they are to be used in, and are effective for, sex offenses, they need to be designed and executed carefully and thoughtfully and be facilitated by well-trained administrators who take the necessary time to prepare and lay a foundation for success. Although no approach is a panacea, the framework below can help to lay that foundation, regardless of which approach(es) are used.

Here are the principles to be considered for supporting various approaches to informal resolution:

- IR can be applied in any sex/gender-based interpersonal conflict but may not be appropriate or advisable in cases involving violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.)
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR.
- The determination of whether to permit an IR-based resolution is entirely at the discretion of the Title IX Coordinator (TIXC) and in line with the requirements for IR laid out in the Title IX regulations.
- Any party can end IR early-, mid-, or late-process for any reason or no reason.
- IR can be attempted before and in lieu of formal resolution as a diversion-based resolution (although a formal complaint must be filed if you are within Section 106.30, per OCR).
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- IR could be deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction).
- Alternate Resolution approaches to IR must be facilitated by the College or a third-party. There may be value in creating clearly agreed-upon ground rules, which the parties must sign in advance and agree to abide by, otherwise the informal resolution process will be deemed to have failed.
- Technology-facilitated IR can be made available, should the parties not be able or willing to meet in person.
- If IR fails, a formal resolution can take place thereafter. No evidence elicited within the “safe space” of the IR facilitation is later admissible in the formal resolution unless all parties consent.
- With cases involving violence, the preferred alternative approach typically involves a minimal number of essential parties and is not a wide restorative circle approach in order to ensure confidentiality.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the Title IX before determining that an incident is amenable/appropriate for resolution by IR.
- IR can result in an accord or agreement between the parties (Complainant, Respondent, and the College) which is summarized in writing by and enforced by the College. This can be a primary goal of the process.
- IR can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties, that are enforceable by the College. These can be part of the accord/agreement.
- As a secondary goal, IR can result in the voluntary acceptance of “sanctions,” meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. These are enforceable by the College as part of the

accord/agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.

- Although a non-disclosure agreement (NDA) could result from IR, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the Title IX Coordinator.
- Institutions must develop clear rules for managing/facilitating the conference/meeting/dialogue of alternative resolution approaches, to ensure they are civil, age-appropriate, culturally-competent, reflective of power imbalances, and maximize the potential for the resolution process to result in catharsis, restoration, remedy, etc., for the harmed party(ies).

## **APPENDIX C: STATEMENT OF RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohi ed harassment or discrimination made in good faith to College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by College officials.
- The right to have College policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by the College's law enforcement and/or other College officials.

- The right to be informed of available interim actions and supportive measures, such as counseling, advocacy, health care, student financial aid, visa, and immigration assistance, or other services, both on campus and in the community.
- The right to a college-implemented no-contact order or a n-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from the College's staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state

and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.

- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have the College compel the participation of faculty and staff witnesses.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

- The right to a fundamentally fair resolution as defined in these procedures.

#### **APPENDIX D: PROCESS B**

- Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- Recipients can substitute any alternative process instead of Process B, if desired.
- VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
- Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.

## **APPENDIX E: VIOLENCE AGAINST WOMEN ACT (VAWA) INFORMATION**

### **A RESOURCE GUIDE FOR STUDENTS ON SEXUAL MISCONDUCT: CAMPUS POLICIES, PROCEDURES AND VICTIM SERVICES**

If you have experienced sexual misconduct,

1. Go to a safe location as soon as you are able.
2. Seek immediate medical attention if you are injured or believe you may have been exposed to an STI/STD or potential pregnancy.
3. Contact any of the following Title IX Team members for immediate assistance. A report may be made at any time (including during non-business hours) by email and telephone.

<p><b>Tony McKinnon</b>  Title IX Coordinator  Forsyth Technical  Community College  2100 Silas Creek  Parkway  Winston-Salem, NC  27103-5197 USA  Office-336-757-3431  Cell- 918-8196</p>	<p><b>Rachel Schroeder</b>  Title IX Deputy  Coordinator  Human Resources  manager  Main Campus 2100  Silas Creek Parkway  <a href="mailto:rschroeder@forsytech.edu">rschroeder@forsytech.edu</a>  336-734-7646</p>	<p><b>Counseling services</b>  Kenyetta A. Richmond,  MS  Director, Shugart  Women's Center &amp;  Counseling Services  Hauser Hall, Suite 206  Forsyth Technical  Community College  336-734-7242</p>	<p><b>Katie Waugh,  M.A., Ed.S, NCC,  LCMHC</b>  Counselor  <i>Forsyth Technical  Community College  2100 Silas Creek  Parkway  Winston Salem, NC  27103  (704) 978-8306</i></p>	<p><b>Richard Watkins</b>  Academic Counselor  Student Success  Center/Forsyth  Technical Community  College  2100 Silas Creek  Parkway  Winston Salem, NC  27103  (336) 757-3622 Office</p>
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If you are off-campus and experiencing an emergency situation, you can call local police by dialing 911. You may also call your local department's non-emergency numbers.

4. It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You may choose to avoid washing, hinging, urinating, etc., until after being examined at a hospital, if possible. Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible. Evidence collection should be completed within 120 hours of an assault, but fluids, hair samples, and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault.

Sexual assault nurse examiners (SANE) are trained in the collection of forensic evidence, and can check for injuries and exposure to sexually transmitted diseases. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or a wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. Police will collect them. Typically, police will be called to the hospital to take custody of the rape kit, but it is up to you whether you wish to speak with them or file a criminal complaint.

5. Choose how to proceed.

- Do nothing until you are ready;
- Pursue resolution by then College; and/or
- Initiate criminal proceedings; and/or
- Initiate a civil process against the perpetrator.

You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by the College, students should contact the Title IX Office. Employees should contact Human Resources. The College procedures will be explained. Those who wish incidents to be handled criminally should contact Wake Tech Campus Police or local police where the assault occurred. A campus official is available to accompany students in making such reports, if desired. Contact the Title IX Office for more information.

\*Denotes that this resource is confidential.

## **CONFIDENTIALITY**

To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional mandatory reporting requirements.

### **Confidential Reporting**

If reporting students wish that details of an incident be kept confidential, they should speak with the College's licensed professional Wellness Counselors. The Counselors are available to help on an emergency basis. Their service is free of charge. The College's Ombudsman, members of the clergy, chaplains, and off-campus rape crisis center staff can be consulted and maintain confidentiality. Local resources such as crisis centers are also confidential and have no duty to report your information to the College.

### **Mandated Reporting**

All College employees who are not designated above as confidential, are Mandated Reporters for all the details of which they are aware about an incident. They share this information with the Title IX Coordinator. Giving a Mandated Reporter notice of an incident constitutes official notice to the institution. Incidents of sexual misconduct will be taken seriously when official notice is given to the institution. Such incidents of sexual misconduct will be investigated and resolved in a prompt and equitable manner under the College's resolution procedures. You may request confidentiality and/or that the Title IX Coordinator provide you with remedies and resources without initiating a formal resolution process. The Title IX Coordinator will weigh requests for confidentiality against the institutional need to address and remedy discrimination under Title IX.

Generally, the College will be able to respect your wishes, unless it believes there is a threat to the community based on the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused. In cases where your request for confidentiality is granted, the College will offer you available resources, supports, and remedies. You are not obligated to pursue formal resolution in order to access the resources that are available. If the College decides that it is obligated to pursue a formal resolution based on the notice you have given, you are not obligated to participate in the resolution process. However, the ability of the College to enforce its policies or provide some remedies may be limited as a result of your decision not to participate.

## **Incidents Involving Minors**

Please be aware that institutional duties with respect to minors (those under the age of 17) may require reporting sexual misconduct incidents to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed in sexual misconduct incidents involving minors.

## **Sexual Misconduct Violations**

The College's Sexual Misconduct Policy is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the policy, the College will impose serious sanctions. All members of the campus community, guests, and visitors are protected by this policy regardless of their sexual orientation or gender identity. Additional information about campus crime, state laws, and disclosures related to sexual misconduct can be found online in the campus Annual Security Report.

The following are the definitions of conduct provided by the sexual misconduct policy.

### **SEXUAL HARASSMENT**

Sexual harassment is: • unwelcome, • sexual, sex-based, and/or gender-based verbal, written, online, and/or physical conduct.

### **HOSTILE ENVIRONMENT**

A hostile environment is created when sexual harassment is: • sufficiently severe, or • persistent or pervasive, and • objectively offensive that it: - unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the institution's educational [and/or employment], social, and/or residential program. Sanctions range from warning through expulsion/ termination.

### **NON-CONSENSUAL SEXUAL CONTACT**

Non-consensual sexual contact is: • any intentional sexual touching, • however slight, • with any object, • by a person upon another person, • that is without consent and/or by force. Sanctions range from warning through expulsion/termination.

### **NON-CONSENSUAL SEXUAL INTERCOURSE**

Non-consensual sexual intercourse is: • any sexual intercourse • however slight, • with any object, • by a person upon another person, • that is without consent and/or by force. Sanctions typically result in suspension or expulsion/termination.

## **SEXUAL EXPLOITATION**

• Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and • that behavior does not otherwise constitute one of other sexual misconduct offenses. Sanctions range from warning through expulsion/ termination.

## **INTIMATE PARTNER VIOLENCE**

Intimate partner violence is: • violence or emotional and/or psychological abuse between those in an intimate relationship toward each other; Sanctions range from warning through expulsion/ termination.

## **STALKING**

Stalking 1: • a course of conduct, • directed at a specific person, • based on actual or perceived membership in a protected class, • that is unwelcome, and, • would cause a reasonable person to feel fear. Sanctions range from warning through expulsion/ termination.

Stalking 2: • repetitive and menacing • pursuit, following, harassing, and/or interfering with the peace and/or safety of another. Sanctions typically result in suspension or expulsion/termination.

**RETALIATION** • any adverse action, • taken against a person participating in a protected activity, • because of that person's participation in that protected activity - subject to limitations imposed by the First Amendment and/or academic freedom. Sanctions range from warning through expulsion/ termination. Sexual misconduct, including sexual harassment, sexual violence, sexual exploitation, intimate partner violence, and stalking are violations of the College's Student Code of Conduct and its sexual misconduct policy.

A number of federal laws and regulations, including Title IX, the Violence Against Women Act, and the Clery Act mandate how institutions respond to such allegations. Many types of sexual misconduct also constitute violations of North Carolina law. Members of the campus community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others.

## **FORCE**

Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of mutually permissible kink, is a clear demonstration of a lack of consent.

## **INCAPACITATION**

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if they can’t understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is “knowing,” it is not valid. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The possession, use, distribution, and/ or administration of any incapacitating substances is prohibited. The fact that a responding party was intoxicated, and thus did not realize the reporting party was incapacitated, does not excuse sexual misconduct.

## Your Rights

**REPORTING** • Reporting parties have the right to notify law enforcement of incidents and to receive assistance from campus personnel in doing so. • Reporting parties may decline to report to law enforcement if they so wish. • Reporting parties have the right to have their allegations investigated and resolved internally by the College.

**FAIRNESS** • All members of the campus community have the right to have reported incidents addressed according to the published College procedures. • All parties have equal opportunities to have a support person of their choosing or offered by the institution present throughout all resolution proceedings (including intake, interviews, hearings, etc.). This person can be an advisor, advocate, attorney, family member, friend, faculty member, etc. • All parties have the right to written notice of the outcome of sexual misconduct resolution proceedings. • Reporting parties and witnesses will receive amnesty for minor infractions (e.g., alcohol and drug violations) that are secondary to incidents of sexual misconduct. • Reporting parties, their supporters, and witnesses have a right to be free from retaliation.

**SUPPORT** • Students have a right to be notified of their ability to access campus counseling and health services. • Students and employees have a right to be notified of on and off-campus supportive resources. • All parties involved in sexual misconduct allegations will receive the information and assistance needed to effectively participate in all proceedings. • Reporting parties have the right to seek orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal courts, and may seek the help of Campus Police in requesting and/or enforcing.

**REMEDIES** • The College may take whatever steps are deemed necessary to appropriately respond to allegations of sexual misconduct, protect students' rights, and keep members of the campus community safe from further harm.

Measures include, but are not limited to: » Issuing interim suspensions pending a hearing.

» Reporting incidents to local police and/or prosecutors.

» Referring to counseling and health services.

» Referring to the Employee Assistance Program.

» Providing education to the community.

» Altering the housing situation of the reporting or responding party.

» Altering work arrangements for employees.

» Providing campus escorts.

» Providing transportation assistance.

» Implementing contact limitations between the parties.

» Offering adjustments to academic deadlines, course schedules, etc.

These measures are available regardless of whether a reporting party seeks formal resolution or makes a crime report.