

PROCEDURES FOR ADDRESSING PROHIBITED SEXUAL MISCONDUCT, HARASSMENT, AND DISCRIMINATION

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1) Policy Statement

The Policy For Addressing Prohibited Sexual Misconduct, Harassment, And Discrimination (“Sexual Misconduct Policy”) prohibits specific acts, including Intimate Partner Violence, Forcible Fondling, Rape, Sex/Gender-based Harassment, Sex/Gender-based Discrimination, Sexual Exploitation, Stalking, Statutory Rape, Retaliation, Interference with Procedures, Complicity, etc. (herein referred to as “Prohibited Conduct”).

The Title IX Coordinator, in consultation with other administrators, can implement reasonable and appropriate Supportive Measures to restore or preserve equal access to the University’s Educational Program or Activities and to protect the safety of the parties.

When a Formal Complaint under this Sexual Misconduct Policy is filed, as detailed in these related Procedures, the University can initiate a formal investigation and adjudication of the alleged Policy violation.

2) Rationale for Policy

The University is committed to providing an inclusive and welcoming environment for all community members. The University values safety, diversity, education, and equity and is firmly committed to maintaining a campus environment free from Sexual Misconduct, Harassment, and Discrimination.

3) Title IX Coordinator

The Title IX Coordinator coordinates WSSU's responses to complaints alleging Prohibited Conduct. Accordingly, the Coordinator oversees and manages the entire investigation/process and partners with the Investigator, Office of Community Standards & Civility, Human Resources, and Athletics.

The University's Title IX Coordinator is:

Kayla Rudisel, JD

Title IX Coordinator

O: 123 Blair Hall

601 S. Martin Luther King Jr. Drive

Winston-Salem, NC 27110

P: 336-750-8758

E: rudiselka@wssu.edu

4) Reporting Prohibited Conduct

A report of a violation of the Sexual Misconduct Policy may be reported at any time, regardless of the length of time between the alleged offense and the decision to report. The University encourages reporting so that we can provide individuals with support and resources.

Complainants are also encouraged to report incidents of criminal activity to the police.

Reporting carries no obligation for the complainant to initiate a formal complaint or investigation. The University observes complainants' requests to forgo a formal investigation unless there is a compelling threat to health or safety. A compelling risk to health or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/ or violence.

An individual can submit a report using the reporting form on the [WSSU Title IX webpage](#) or by contacting the Title IX Coordinator:

Kayla Rudisel, JD

Title IX Coordinator

O: 123 Blair Hall

601 S. Martin Luther King Jr. Drive

Winston-Salem, NC 27110

P: 336-750-8758

E: rudiselka@wssu.edu

Any person may report Prohibited Conduct to the Title IX Coordinator or designee in person, by mail, by telephone, by electronic mail, or by any other means that results in the Title IX

Coordinator or designee receiving the person's verbal or written report. Such a report may be made whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Prohibited Conduct.

After normal business hours and weekends, you can contact WSSU Police and Public Safety at 336-750-9111 for an immediate response.

5) No Time Limits on Reporting

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

Acting on reports/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, remedies, and/or engage in informal or formal action, as appropriate.

6) Emergency Removal

The University can act to remove a student Respondent from its education program or activities—partially or entirely—on an emergency basis when an individualized safety and risk analysis has determined that a threat to the physical health or safety of any student or other individual justifies removal.

When an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator before such action/removal being imposed, or as soon as reasonably possible thereafter, 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. This meeting must be requested within three (3) business days of the notice of action/removal. If a timely request is not made, the objections to the emergency action/removal will be deemed waived. 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 may implement or modify an emergency removal and determine the conditions and duration. Violation of an emergency removal will be grounds for discipline, which may include expulsion.

The University will attempt to 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: removing a student from a residence hall, 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 incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

7) Confidentiality/Privacy

WSSU will not share the identity of any individual who has made a report or Formal Complaint; any Complainant; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or required by law; or to carry out the resolution process grievance arising under these policies and procedures.

Documents prepared in anticipation of any hearing, such as pre-hearing submission, notices of hearing testimony, and information submitted at the hearings, may not be disclosed outside the investigation and hearing proceeding, except as may be required or authorized by law or the Title IX Coordinator.

The University will, to the extent practicable, try to comply with the wishes of the individual regarding their request for confidentiality or not pursuing a hearing. The University will take such requests seriously; however, such requests may limit the University's ability to investigate and take reasonable action. The University may be required to move forward with an investigation and take reasonable action in response to the complaint, though if these steps may be limited by a request for confidentiality. The University will evaluate the request of the Complainant next to the University's concern for the safety, well-being, and nondiscriminatory environment.

8) Supportive Measures

The University will make reasonable supportive measures available to the parties upon approval by the Title IX Coordinator. Supportive measures are available before or after filing a formal complaint or where no formal complaint has been filed. Supportive measures are non-disciplinary, nonpunitive individualized services offered as appropriate, reasonably available, and without fee or charge.

The University will maintain as confidential any supportive measures provided to the parties to the extent that maintaining such confidentiality would not impair the ability of the University to offer the supportive measures.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, or other healthcare services
- Referral to community-based service providers
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or another course/program-related adjustment
- Trespass, Persona Non-Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

9) **Policy Definitions**

Complainant means the individual(s) alleged to be the victim of conduct that could constitute Prohibited Conduct.

Respondent means the WSSU student(s) who have been reported to have perpetrated conduct that could constitute Prohibited Conduct.

The section below describes the specific forms of prohibited conduct under the Sexual Misconduct Policy. All offense definitions encompass actual and attempted offenses.

A Sexual Misconduct, Harassment, and Discrimination

Prohibited Conduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, or gender identity of those involved. The University has adopted the following definitions to address the unique environment of an academic community. Sexual Misconduct, Harassment, Discrimination includes conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

Intimate Partner Violence:

- a. Violence,
- b. committed by a current or former spouse of the Complainant, or
- c. by a person with whom the Complainant shares a child in common, or
- d. by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

The existence of such a social or romantic 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. Violence includes but is not limited to sexual or physical abuse or the threat of such abuse.

Forcible Fondling:

- a. Touching of the private body parts of the Complainant (buttocks, groin, breasts, upper thigh, etc.)
- b. for the purpose of sexual gratification
- c. without the Complainant's consent.

Rape:

- a. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- b. without the Complainant's consent.

Sex/Gender-based Harassment:

- a. Unwelcome conduct or speech,
- b. determined by a reasonable person,
- c. to be so severe, or
- d. pervasive, or
- e. objectively offensive
- f. that it unreasonably interferes with an individual's functioning, or
- g. creates an intimidating, hostile, or abusive working or learning environment.¹

Sex/Gender-based Discrimination:

¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than 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.

- a. Any unlawful distinction, preference, or detriment to an individual as compared to others that is
- b. based on an individual's sex, gender, gender identity, gender expression, or sexual orientation
- c. that is sufficiently serious to unreasonably interfere with or limit a student's or applicant for admission's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, club, campus housing).

Sexual Exploitation:

- a. An individual taking non-consensual or abusive sexual advantage,
- b. of another for their own benefit or the benefit of a third party.

Examples of Sexual Exploitation include, but are not limited to:

- i. Prostituting another person
- ii. Engaging in sex trafficking of another person
- iii. Knowingly creating, possessing, or disseminating child abuse material
- iv. 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 virus, disease, or infection
- v. Causing or attempting to cause the incapacitation of another person through alcohol, drugs, or any other means to compromise that person's ability to give consent to sexual activity or the purpose of making that person vulnerable to non-consensual sexual activity
- vi. Forcing a person to act against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts that Complainant's nudity or sexual activity
- vii. Secretly removing a condom during sex without the person's consent, i.e., stealthing
- viii. Intentionally observing, recording, or photographing by any means the nudity or partial nudity of another when there is a reasonable expectation of privacy without the individual's consent
- ix. Intentionally observing, recording, or photographing another in a sexual act or engaging in sexual activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity
- x. Intentionally sharing or disseminating images, videos, audio recordings of nudity, partial nudity, sexual act, or sexual activity of another without that person's consent

Statutory Rape:

- a. Non-forcible sexual intercourse
- b. with a Complainant under the statutory age of consent in North Carolina.

Stalking²:

- a. Engaging in a course of conduct,
- b. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. suffer substantial emotional distress.

B Consent

Consent is:

- voluntary,
- informed,
- clear permission
- by word or action,
- revocable at any time
- to engage in sexual activity.

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.

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.

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.

² 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. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent. Clear communication from the outset is strongly encouraged.

If consent is withdrawn, that sexual activity should cease. 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. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Consent is not given in situations involving coercion, force, or incapacitation, as defined below:

Force: Force is using physical violence or 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.”).

Silence or the absence of resistance alone is not consent. The lack of resistance does not demonstrate consent. While resistance is not required or necessary, it clearly demonstrates non-consent.

Incapacitation: Incapacitation is the physical or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation is a temporary or permanent state in which an individual cannot consent to sexual contact due to mental, developmental, or physical impairment or from the influence of alcohol or drugs. States of incapacitation include but are not limited to sleep, unconsciousness or intermittent consciousness, involuntary physical restraint, or any other state where an individual is unaware of sexual contact.

For incapacitation due to alcohol or other drugs, incapacitation requires more than being under the influence; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol or other drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the Respondent or a reasonable sober person in

the Respondent's position. The accused's use of drugs or alcohol is not a defense to allegations of non-consensual sexual contact.

Coercion: Coercion is undue pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and extent of the pressure used to obtain consent.

C Additional Policy Definitions

Retaliation:

- a. Intimidation, threats, coercion, or discrimination
- b. to interfere with any right or privilege secured by the Sexual Misconduct Policy or against an individual for engaging in protected activity.
- c. Protected activity consists of
 - i. making a report or complaint about conduct reasonably believed to constitute a violation of the Sexual Misconduct Policy, or
 - ii. testifying, assisting, or participating in any investigation or other proceeding related to such a complaint.

Interference with Procedures:

Inference includes, but is not limited to, the following:

- a. Knowingly falsifying, distorting, or misrepresenting information provided to the Title IX Coordinator, the investigator, the hearing decision maker(s), or appellate official(s),
- b. knowingly constituting a complaint without cause and in bad faith, or
- c. engaging in acts of bad faith or dishonesty intended to interfere with the resolution process and the procedures established under Title IX Office policies. Such acts include, but are not limited to, intentionally and unreasonably delaying the resolution process, failing to comply with the terms of disciplinary proceedings, or authorizing or instructing others to engage in such acts on one's behalf.

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.

Complicity:

- a. An act that knowingly aids, facilitates, promotes, or encourages
- b. the commission of Prohibited Conduct conduct or conduct that violates the Title IX Policy.

Failure to Comply:

Failure to comply with official orders (e.g., restraining orders, no-contact orders, etc.) imposed by government or campus authorities or any other Supportive Measures established by university personnel.

10) Amnesty

Sometimes, Complainants or witnesses are hesitant to report to the University officials or participate in resolution 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. To encourage reporting and participation in the process, the University typically offers parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident.

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. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable.

The Resolution 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.

WSSU 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.

Due to availability, absences, conflict of interest, etc., employees may delegate their duties to another trained person upon approval by the Title IX Coordinator. All employees involved in the formal complaint process are trained as required by applicable law.

12) Resolution of a Formal Complaint³

A Overview

Complaints, investigations, hearings, etc. (“Resolution Process” or “Grievance Process”) may be consolidated when the allegations of misconduct arise out of the same facts or circumstances or when the Title IX Coordinator deems it prudent to consolidate cases. In addition, the procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Sexual Misconduct Policy are being addressed at the same time.

Violations of no contact orders or other restrictions related to the allegations may be referred to appropriate student conduct or employee grievance processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under the Title IX or Sexual Misconduct Policy and the associated procedures.

B Filing a Formal Complaint

A formal complaint is a designated form signed by a Complainant or signed by the Title IX Coordinator alleging the Respondent violated the Sexual Misconduct Policy and requesting that WSSU investigate the allegation(s).

A Complainant can request a formal complaint form from the Title IX Coordinator. The formal complaint form can be filed with the Title IX Coordinator in person, via mail, email, or in any manner approved by the Title IX Coordinator. If a formal complaint is submitted in a manner that does not meet the approved standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

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 the Sexual Misconduct Policy. The Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under these Procedures irrespective of their level of participation.

³ The Title IX Coordinator is authorized to modify these procedures in order to handle complaints in situations where the complainant is unavailable, inaccessible, unnamed, or not affiliated with the university; where specific respondents cannot be identified; or where it is otherwise deemed necessary. Additionally, in cases that involve student groups, the student leaders are usually named as "respondents" on behalf of the group and are responsible for implementing remedies. However, they may be held responsible for any misconduct unless there is evidence of intentional disparate treatment or action.

C Dismissal of Formal Complaint

A Formal Complaint may be dismissed, in whole or in part, at the Title IX Coordinator's discretion, if:

1. It would not constitute Prohibited Conduct, even if proved,
2. A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations in the complaint,
2. The Respondent is no longer enrolled at the University, or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the complaint.

The Title IX Coordinator will promptly send written notice of the dismissal, including the reason(s) for the dismissal, to the parties. The parties can appeal the dismissal of a formal complaint or any allegations in the formal complaint in the manner set forth in the Appeal Procedures section.

A dismissal does not preclude action under another provision of university policy. Even if the University is unable to take disciplinary action, the University will seek to take appropriate steps to prevent sexual harassment from occurring.

D Promptness

The university will conduct a timely investigation. Complaints typically take 60 to 90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but WSSU will attempt to avoid all undue delays within its control.

WSSU 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, academic breaks, the absence of parties and/or witnesses, and/or health conditions. The Title IX Coordinator maintains discretion to reasonably advance the process.

WSSU 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.

E Advisor/Support Person

At any meeting or hearing related to the Resolution Process under the Sexual Misconduct Policy, the Complainant or Respondent may have a Support Person present. In addition, the parties may have a second person present: an additional Support Person, a Non-Attorney Advisor, or, at the party's own initiative and expense, an Attorney. The parties must provide three (3) business days

advance notice to the staff member hosting the meeting (unless the meeting is called on shorter notice) of the name and relationship of any individual who will accompany them to a meeting, so that all parties are aware of who will be present at any meeting.

A party's inclusion of a Support Person, Attorney, or Non-Attorney Advisor is at the sole expense of the party.

Support Person: A Complainant and Respondent may choose to be assisted by a Support Person of their choice. A Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the proceeding or meeting. Once chosen by a student to serve as a Support Person, the individual may be required to meet with the Hearing Chair in advance of any participation in the proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum. The Support Person cannot be a fact witness or provide testimony during any meeting or proceeding.

Attorney or Non-Attorney Advisor: A Complainant and a Respondent may, at their own initiative and expense, be assisted by an Attorney or Non-Attorney Advisor. The Attorney or Non-Attorney Advisor may accompany the party to any investigative, administrative, or adjudicative meeting or proceeding under the Policy, including the hearing before the Hearing Officer. The Attorney or Non-Attorney Advisor should meet with the Hearing Chair in advance of any participation in the proceedings to understand the expectations of the role, privacy, and appropriate decorum. In order for an Attorney or Non-Attorney Advisor to participate in any meeting or proceeding, the Complainant or Respondent must complete and submit an informational form to the Title IX Coordinator no later than three (3) business days prior to the meeting or proceeding. The University, its officials, and the decision-maker(s) will communicate and correspond directly with the party. It is the party's responsibility to communicate and share information with the Attorney or Non-Attorney Advisor. The University will prioritize the availability of the parties, witnesses, and hearing decision-maker(s) when determining the date and time for any meeting or proceeding. Throughout the Investigation and Adjudication, the Attorney or Non-Attorney Advisor may fully participate in the proceeding to the same extent afforded to the party the Attorney or Non-Attorney Advisor represents. A party's Attorney or Non-Attorney Advisor may not delay, disrupt, or otherwise interfere with the Investigation or Adjudication process including the hearing procedures.

F Investigation of Formal Complaints

1. The Title IX Coordinator will inform the Respondent and Complainant in writing of the investigation.
2. The investigator is primarily responsible for the investigation of the reported conduct and preparing a written investigation report summarizing relevant information collected throughout the investigation. The investigation is a neutral fact-gathering process. Interviews with the investigator may be recorded. No other recordings of interviews are permitted.
4. Each party will receive a copy of the investigation report and have five (5) business days to submit a written response to the Title IX Coordinator.
5. The investigator will incorporate relevant elements of the parties' written responses into the final investigation report, including any additional relevant evidence, make any necessary revisions, and finalize the report.
6. The investigative report will be forwarded to the Title IX Coordinator for review. The Title IX Coordinator has the discretion to ask the investigator for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigative report.
7. All witnesses, evidence, and information should be presented to the investigator prior to the conclusion of the investigation.

G Investigative Finding and Outcome Conference

After incorporating and addressing any additional relevant information from the Complainant or Respondent, the Title IX Coordinator will make an Investigative Finding, by a preponderance of the evidence, regarding whether the Respondent violated the Policy and will recommend a sanction and/or remedy based on the Investigative Finding. In reaching these determinations, the Title IX Coordinator may consult with any other designated administrator who has information relevant to the Investigation. The Title IX Coordinator may also consider prior disciplinary history and WSSU Police and Public Safety regarding prior criminal history.

Upon issuance of the Investigative Finding, and where appropriate, a recommended sanction and/or remedy, each party will have the opportunity to meet, separately, with the Title IX Coordinator for an outcome conference. During the Outcome Conference,

- i. Where there has been an Investigative Finding that a Policy violation has occurred, both the Complainant and Respondent
 - a. Accept both the Investigative Finding and recommended sanction;
 - b. Accept the Investigative Finding, but request a Hearing on the recommended sanction; or,
 - c. Request a Hearing on the Investigative Finding and recommended sanction.
- ii. Where there has been an Investigative Finding that there is insufficient evidence to conclude that the Respondent violated the Policy, both the Complainant and Respondent may:
 - a. Accept the Investigative Finding (on one or all of the alleged violations); or

- b. Request a Hearing on the Investigative Finding (on one or all of the alleged violations).

The Complainant and Respondent must communicate their chosen course of action to the Title IX Coordinator in writing (e.g., email, letter) within five (5) business days of notification of the Investigative Finding.

If either party requests a Hearing, the matter will be referred to a Hearing Officer(s) to determine whether a Policy violation was committed and/or to determine an appropriate sanction

H Adjudication Option

At the conclusion of the Outcome Conference, one of the following will occur:

i. Imposition of Final Finding, Sanction, and Remedy

Where both the Complainant and the Respondent agree to the Investigative Finding and any recommended sanction, the outcome will become final. Where there has been an Investigative Finding that the Respondent violated the Policy and the Respondent seeks to accept the recommended sanction, the Respondent must indicate in writing⁴ the intent to waive the hearing and accept the recommended sanction. The Title IX Office will provide a waiver and acceptance form for the Respondent's review and signature. The Respondent may not waive the hearing or accept the recommended sanction by silence or passivity. If the Respondent does not communicate their chosen course of action to the Title IX Coordinator in writing within five (5) business days of notification of the Investigation Finding, the Title IX Office will issue a Notice of Hearing to the Complainant and the Respondent and will forward the report for adjudication by the Hearing Officer(s). The finality of the outcome, which is not subject to further appeal or review, will be communicated to the parties, in writing at the same time.

ii. Adjudication by a Hearing Decision-Maker(s) Review of an Investigative Finding that the Respondent Violated the Policy

If either party challenges an Investigative Finding that the Respondent violated the Policy, the Title IX Office will issue a Notice of Hearing to the Complainant and the Respondent and forward the report for adjudication by the Hearing.

iii. Adjudication by a Hearing Officer: Review of Recommended Sanction Only

⁴ This requirement is pursuant to the Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Procedures adopted by the Board of Governors, University of North Carolina Policy Manual § 700.4.1.

Where either the Complainant or the Respondent requests a hearing only on the recommended sanction, the Hearing Officer(s) will review the matter for the sole purpose of determining the appropriate sanction.

I Hearing Procedures

The Title IX Coordinator will designate Hearing Officer(s) to preside over the matter. WSSU reserves the right to appoint any trained individuals who are without conflict or bias to serve as Hearing Officer(s). The Hearing Officer(s) will not include the Title IX Coordinator or any person who served as an investigator in the matter.

At the hearing, the Hearing Officer(s) has the authority to hear and make determinations on all allegations of Prohibited Conduct and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the Prohibited Conduct, even though those collateral allegations may not specifically fall within the Sexual Misconduct Policy.

Participants at the hearing may include 1-3 Hearing Officer(s), the hearing facilitator, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, Support Person, the Title IX Coordinator, hearing officer advisor, and anyone providing authorized accommodations, interpretation, and/or assistive services. The Hearing Officer(s) will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Hearing Officer(s) and the parties, and the witnesses will then be excused.

All parties, witnesses, and other participants may appear at the hearing virtually. At the request of either party, the university will consider conducting an in-person hearing.

Each party will have an equal opportunity to present witnesses and other evidence. Any credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Questions directed to the parties will be made through the Hearing Officer(s), who will screen them for relevance. Questions may be directed to the witnesses. However, the Hearing Officer(s) has the discretion to determine that the questions will be made through the Hearing Officer(s) in cases where it has been determined that questioning by the parties will be unduly intimidating or burdensome to a witness. In all such instances, the Hearing Officer(s) may require measures to assure the integrity of the process.

J Joint Hearings

In hearings involving more than one Respondent and/or involving more than one Complainant, can be heard jointly if the respondent has been accused of substantially similar conduct or allegations that arise out of the same occurrence or series of events.

At the discretion of the Title IX Coordinator, investigations and/or hearings pertinent to each Respondent or complaint will be conducted separately if there is a compelling reason to do so. Charges against multiple students involved in the same incident may be heard in a single case only if each student respondent consents to such a proceeding. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

K Hearing Recordings

Hearings (but not deliberations) are recorded by Winston-Salem State University. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Hearing Officer(s), the parties, their Advisors, and appropriate administrators of Winston-Salem State University will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without the permission of the Title IX Coordinator.

L Deliberation and Standard of Proof

The Hearing Officer(s) will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility for one or more of the allegations, the Hearing Officer(s) may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). Each of the parties will have an opportunity to review any submitted impact and/or mitigation statement(s).

As part of that determination of sanctions and remedies, the Title IX Coordinator may, in their discretion, provide the decision-makers with information regarding previous conduct violations by the Respondent.

M Notice of Outcome

The Hearing Officer(s) will share the outcome letter, which includes the final determination, rationale, and any applicable sanction(s), with the parties.

The Notice of Outcome will be shared with the parties simultaneously to the parties' WSSU-issued email or any other means of delivery deemed appropriate by the Title IX Coordinator (in-

person, mail, to an approved email account, etc.) Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

N Sanctions/Remedies

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
- The need for sanctions/responsive actions to bring an end to the Prohibited Conduct
- The need for sanctions/responsive actions to prevent future Prohibited Conduct
- The need to remedy the effects of the Prohibited Conduct on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Officer(s)

The sanctions and remedies 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.

i) Sanctions

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

- Expulsion means a permanent dismissal. A student who has been expelled from WSSU may not be admitted to another constituent institution of the University, unless and until the sanction of expulsion has been rescinded by WSSU.⁵
- Permanent Suspension means that the student is removed from good standing and must leave the University permanently without an expectation that the student may eventually return to the WSSU campus. The student is not barred, however, from seeking admission to another UNC System university, if that university wishes to permit such application following disclosure of the student's disciplinary record at WSSU.⁶
- Suspension for a Definite or Indefinite Period means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form

⁵The chancellor or a vice chancellor must make the final administrative decision in all expulsion cases. After an expulsion has become final, the chancellor who imposed or approved the sanction (or his or her successor) may conclude on the basis of the former student's petition and any supporting documentation that the individual should be given a new opportunity to pursue higher education.

⁶ A vice-chancellor or the vice-chancellor's delegate must make the final administrative determination in all suspension cases.

of suspension anticipates that the student may eventually return if applicable conditions are satisfied. Academic work completed at another institution during a period in which a student is under suspension from the University may not be transferred toward the degree, but applicable health care or insurance benefits may be continued if the health insurance premium has already been paid.⁷

- Probation for a Definite or Indefinite Period, including probation with associated conditions or requirements as set by the Hearing Officer, means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other measures as deemed appropriate which may include the loss of privileges, residential and/or campus bans, No Contact Order, withholding or revoking a degree, restitution, educational program/project/class, housing relocation, housing termination, deferred housing termination, deferred suspension, counseling referral, educational conversation with faculty or staff, fines, residence hall expulsion/eviction, community service, any other University sanctions, or any other appropriate measures.

Expulsion, permanent suspension, suspension for a definite or indefinite period, and probation may be noted on a student's transcript while the sanction is in effect.

ii) Remedies

When there has been a determination that the Respondent has violated the Policy, the University will consider appropriate remedies, based upon the findings and unique circumstances of each report. Remedies are measures taken to restore and preserve the Complainant's equal access to the University's educational programs, employment opportunities, or activities by addressing the effects of the conduct on the Complainant. Remedies seek to restore to the Complainant, to the extent possible, all benefits and opportunities lost as a result of the Prohibited Conduct. Remedies may include, but are not limited to, adjustment of work or class assignments, location, and/or schedule or recommending a review of a negative performance or grade decision that may have resulted from the conduct that violated the Policy. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

⁷ A vice-chancellor or the vice-chancellor's delegate must make the final administrative determination in all suspension cases.

The Title IX Coordinator will, in all cases, consider whether there is a need for additional or extended remedies. The Title IX Coordinator is responsible for effective implementation of any remedies.

O Disability Accommodations in the Resolution Process

WSSU is committed to providing reasonable accommodations and support to qualifying students, employees, or others with disabilities to ensure equal access to the Resolution Process. Students needing such accommodations or support should contact WSSU's Department of Disability Services and employees should contact Human Resources, 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.

P Appeal Procedures

i) Appeal to Appeal Officer(s)

Both parties have the opportunity to appeal a determination regarding responsibility and a dismissal of a formal complaint or any allegations in the complaint to the Appeal Officer(s) within five (5) business days of the issuance of the decision. Appeals are submitted by completing the online appeal form that will be included in any decision letter from the Hearing Officer(s).

If neither party requests an appeal within the five (5) business day timeline, any sanction will take effect immediately at the end of the five (5) business day appeal timeline.

Appeals are limited to 2,500 words, including attachments. Grounds for the appeal must be clearly and concisely stated, and all relevant information substantiating the grounds for appeal should be included.

The following constitute appropriate grounds for appeal:

- (1) a violation of due process, or
- (2) material deviation from the Minimum Substantive and Procedural Standards for Student Disciplinary Procedures, Section 700.4.1 of the UNC Policy Manual.

Mere dissatisfaction with the Hearing Officer(s) or dismissal outcome is not a valid basis for appeal. In addition, appeals are not intended to be a rehearing of the matter. The scope of the appeal will be limited to the grounds for appeal included in the written appeal submissions. In any request for an appeal, the burden of proof lies with the party requesting the appeal, because the outcome will be presumed to have been decided reasonably and appropriately.

If it is determined that the written appeal does not meet any of these criteria, the appeal will be denied without review by the Appeal Officer(s). Once the appeal is filed, WSSU will provide written notice to the other party. If the appeal is determined to be properly filed, the other party will be given an opportunity to review and respond to the written appeal. Responses to written appeals are due five (5) business days after receipt of a copy of the appeal and are limited to 2,500 words.

If both parties have filed an appeal, the appeal documents from each party will be considered together in one appeal review process. Each party will be provided with the other party's appeal and may provide a response to the other party's written appeal. Responses to written appeals are due five (5) business days after receipt of a copy of the appeal and are limited to 2,500 words. After reviewing all submitted materials, the Appeal Officer(s) may: (1) affirm the outcome; (2) return the matter to the original, or a new Hearing Officer(s); (3) return the matter to the original or a new investigator; (4) change the sanctions; or (5) overturn the dismissal. All decisions are by majority vote and apply the preponderance of the evidence standard. Decisions by the Appeal Officer(s) are by a majority vote of Appeal Officer(s) present and participating in the appeal consideration.

The outcome (including rationale for the result) of the Appeal Officer(s) will be made in writing to both the Complainant and Respondent. All decisions by the Appeal Officer(s) are final unless otherwise indicated in Paragraph P(ii).

ii) Further Review/Appeal in Matters of Suspension or Expulsion

Where the Appeal to the University affirms a Hearing Outcome that includes suspension or expulsion, either party may further appeal the Hearing Outcome to the Board of Trustees on the following grounds:

- 1) Violation of due process; and,
- 2) Material deviation from the Minimum Substantive and Procedural Standards for Student Disciplinary Procedures adopted by the Board of Governors, University of North Carolina Policy Manual § 700.4.1.

Where the Board of Trustees affirms the Hearing Outcome, the decision is final and is not subject to further appeal. Consistent with the Code of the Board of Governors of the University of North Carolina system, no appeal to the President or the Board of Governors of the University of North Carolina system is permitted.

13) Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

14) Failure to Comply with Sanctions and/or Responsive Actions

Students are expected to comply with the assigned sanctions, responsive actions, IRP terms, emergency removal actions and/or corrective actions. Failure to abide by the sanction(s)/action(s) imposed. Failure to comply or failure to comply by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including account holds, suspension, and expulsion/termination from the University. Additional sanction(s)/action(s) for missing a deadline may only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

15) Withdrawal or Resignation Before Complaint Resolution

Should a Respondent decide not to participate in the Resolution Process, the process may proceed absent their participation. Should a Respondent permanently withdraw from WSSU, the Resolution Process typically ends with a dismissal, as WSSU has lost primary disciplinary jurisdiction over the withdrawn student. However, WSSU may continue the Resolution Process at the discretion of the Title IX Coordinator.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, WSSU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The Respondent who withdraws or leaves while the process is pending might not be able to return to WSSU in any capacity, if the Process is not completed. Admissions and Security may be notified, accordingly.

If the Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue and, if found in violation, that student is not permitted to return to WSSU unless and until all sanctions, if any, have been satisfied.

16) Informal Resolution Process (IRP)

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternative Resolution, i.e., mediation, restorative practices, facilitated dialogue, etc., when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time

and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, a Formal Grievance/Resolution Process may be pursued.

The Title IX Coordinator will determine whether the request for IRP is appropriate for the particular complaint. The Title IX Coordinator may deny a request for IRP or IRP terms if the Title IX Coordinator determines that IRP would not be appropriate for the unique allegations and circumstances, even if both the Complainant and Respondent consent to the request.

IRP may be conducted by any means (in-person, virtually, email, etc.) the Title IX Coordinator determines to be appropriate, based on factors such as the nature of the complaint, the desires of the parties, and any other relevant considerations. The Title IX Coordinator may facilitate the IRP or assign a facilitator as appropriate.

As a condition of engaging in Informal Resolution, the statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless the parties consent.

WSSU maintains the right to reject any term or proposed term of the IRP agreement. WSSU may provide suggested language to be included in the agreement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, failure to comply charge). The results or agreements resulting from an IRP are not appealable.

IRP may include a broad range of strategies, including but not limited to:

- ***Supportive Resolution.*** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- ***Alternative Resolution.*** When the parties agree to resolve the matter through an alternative resolution mechanism, including mediation, restorative practices, facilitated dialogue, facilitated agreement, etc.
- ***Other Remedies.*** Any other remedy that can be tailored to the involved individuals to promote an inclusive and non-discriminatory environment.
- ***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 accepts responsibility, the Title IX Coordinator determines that the individual is in violation of Recipient policy.

The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or

retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant [may be consulted on and] will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations may continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations in this section.

17) Revision of the Policy and these Procedures

The Policy and these procedures supersede any previous policies addressing Prohibited Conduct for incidents occurring on or after its effective date and will be reviewed and updated annually by the Title IX Coordinator. The University 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.

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

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally. In the event any provision of the Sexual Misconduct Policy and these Procedures conflicts with applicable law, the law will supersede such provision.

18) External Regulations

- The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. section 1092(f) (Clery Act)
- Section 304 of the 2013 Amendments to the Violence Against Women Act (VAWA)

19) Policy Contacts

Inquiries or concerns about the Sexual Misconduct Policy may be referred to the University's Title IX Coordinator.

Kayla Rudisel, JD

Title IX Coordinator

O: 123 Blair Hall

601 S. Martin Luther King Jr. Drive

Winston-Salem, NC 27110

P: 336-750-8758

E: rudiselka@wssu.edu