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Appendix A: Privileged and Confidential Resources

Appendix B: Additional Resources for Sexual Misconduct

1. Purpose

North Carolina Central University ("NCCU" or "University") is committed to providing an inclusive and welcoming environment for all members of the University community. The University is committed to providing an institutional environment free from unwelcome and unwanted sexual actions. The University strongly condemns all forms of sex discrimination, including sexual misconduct, sexual assault, dating violence, domestic violence, and stalking offenses. This Sexual Misconduct Policy was created in compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, et seq.). As such, this Policy describes prohibited conduct, establishes procedures for responding to reports of sexual misconduct, and sets forth resources available to students and employees. The University is committed to academic and professional excellence, which is evidenced by its intent to enhance and protect the educational process. Sexual assault, dating violence, and stalking can hinder excelling academically and professionally. Any form of interpersonal intimacy requires mutual engagement in an environment of affirmative consent. Sexual assault, domestic and dating violence, and stalking (herein referred to, collectively, as sexual misconduct) against anyone by another individual, whether non-stranger or stranger, is unacceptable. All faculty and staff, with the exclusion of confidential resources, must report instances of sexual misconduct to the University’s Title IX Coordinator.
2. **Scope and Jurisdiction**

The Sexual Misconduct Policy applies to all members of the NCCU community, including students, faculty, staff, administrators, volunteers, vendors, independent contractors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University. Individuals are covered by the Policy regardless of sexual orientation or gender identity or expression. Everyone is encouraged to report alleged sexual misconduct in accordance with this Policy as soon as they are able in order to maximize the University's ability to provide support and conduct a thorough, impartial and prompt investigation. Sexual misconduct offenses may be reported whether the alleged offense happened on NCCU’s property or at University-sanctioned events or programs that take place off campus, including study abroad and internship programs. In situations in which both the Complainant and Respondent are members of the University community, this Policy will apply regardless of the location of the incident. In particular, off campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, NCCU or any member of the University community, is covered under this Policy.

3. **Definitions**

3.1 Terms Used in the NCCU Sexual Misconduct Policy

3.1.1 Coercion involves unreasonable and unwanted pressure to engage in sexual activity. Engaging in sexual activity should be the result of a freely given choice. An individual should engage in sexual activity because he or she wants to, and not as the result of being pressured by someone else. Threatening, cajoling, andpressuring someone until they finally say "Okay, just get it over with" is not consent.

3.1.2 Complainant is the term used for the individual who is alleged to have experienced sexual misconduct, regardless of gender.

3.1.3 Consent is an affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely, willingly, and actively by all parties. Consent is informed, knowing, and voluntary. Consent is active, not passive. Silence or an absence of resistance cannot be interpreted as consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent to sexual activity may be withdrawn at any time. If consent is withdrawn, all sexual activity must immediately cease.

3.1.3.1 In the absence of mutually understandable words or actions (an agreement on what is to be done, where, with whom, and in what way), it is the responsibility of the initiator (the person who wants to engage in the specific sexual activity) to make sure that he or she has consent from the potential partner(s). Coercion, force, or threat of either invalidates consent.

3.1.3.2 Conduct will be considered “without consent” if no clear consent, verbal or nonverbal, is given. It is important not to make assumptions; if confusion or
ambiguity on the issue of consent arises anytime during the sexual interaction, it is essential that each participant stops and clarifies, verbally, willingness to continue. In the State of North Carolina, an individual cannot legally give consent if he or she is incapacitated due to alcohol or legal or illegal drugs, or under the age of 16.

3.1.3.3 Someone is not giving consent if she or he is: saying “no” or “stop”, crying, moving away, pushing the other(s) away, completely still/unengaged, intoxicated, drugged/high, asleep, unconscious, physically or psychologically pressured or forced, intimidated, coerced, manipulated, mentally or physically impaired, beaten, threatened, confined, or under the age of 16.

3.1.3.4 Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one’s responsibility to obtain consent. Silence, previous sexual relationships, and/or a current relationship with the initiator (or anyone else) may not be taken to imply consent.

3.1.4 Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. It is based on the reporting party’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. It includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

3.1.5 Domestic Violence is an offense committed by a current or former spouse or intimate partner of the Complainant; or by a person who has a child in common with the Complainant; cohabitating with OR has cohabitated with the Complainant as a spouse or is “similarly situated to a spouse” of the Complainant; or violence against an adult or youth who would otherwise be protected by domestic or family violence laws in that jurisdiction.

3.1.6 Hostile environment sexual harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening, or abusive educational environment. A hostile environment can be created by anyone, including a University employee, another student, or even someone visiting the University, such as a student or employee from another University.

3.1.7 Incapacitation is defined as being in a state in which a person sufficiently lacks the mental awareness that the situation is of a sexual nature, or cannot appreciate (rationally and reasonably) the nature and/or extent of a situation that may involve sex. Respondents of sexual assault often use alcohol or drugs as a tool to rape. Under NC law, no one can give consent if under the influence of drugs or alcohol. Further, being intoxicated or high is never an excuse to perpetrate sexual assault. The University encourages all bystanders to report to the police any act that could potentially lead to sexual assault.

3.1.8 Intimidation is the use of threats or promise of a threat to compel and/or deter someone from taking a particular action.

3.1.9 Non-Consensual Sexual Contact entails the touching of any sexual body
parts (such as breasts, buttocks, groin, genitals, mouth, and/or clothing covering them); touching an unwilling person with one’s own intimate parts; or forcing an unwilling person to touch another’s intimate parts.

3.1.10 Non-Consensual Sexual Intercourse involves unwilling or non-consensual penetration of any bodily opening with any objects or body part. This includes, but is not limited to, penetration of a bodily opening without consent through the use of coercion.

3.1.11 Quid pro quo sexual harassment occurs when a University employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a University program or activity. It can also occur when an employee causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo sexual harassment.

3.1.12 Retaliation is intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s informal or formal complaint or participation in a University or U.S. Department of Education Office for Civil Rights investigation or proceeding related to sexual violence or other civil rights concerns. Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws.

3.1.13 Respondent is the term used for the individual who has committed the alleged sexual misconduct. Until the conclusion of the investigation, the sexual misconduct is alleged.

3.1.14 Sexual Assault is an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Sexual assault also includes engaging in, or attempting to engage in oral, vaginal, or anal penetration through any means (such as penis, tongue, finger, foreign object, etc.) without the consent of the other person.

3.1.15 Sexual Exploitation takes place when a student takes non-consensual or abusive advantage of another for his/her own advantage or benefit, and that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to: non-consensual video or audio taping of sexual activity, stalking with a sexual component, or voyeurism.

3.1.16 Sexual Harassment comes in several forms and includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communication of a sexual nature when: (i) submission to or rejection of such conduct or communication is a term or condition of education/employment benefits, academic/job related evaluations or opportunities; (ii) submission to such conduct or communication substantially interferes with a student’s education and/or an employee’s job; or (iii) such conduct is sufficiently severe, pervasive, and objectively offensive as to have the effect of creating an intimidating or hostile educational/work environment or negatively affects a student’s/employee’s educational/employment opportunities.
3.1.17 Sexual Misconduct includes but is not limited to sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, and stalking.

3.1.18 Sexual violence (SV) is any sexual act that is perpetrated against someone's will. SV encompasses a range of offenses, including a completed nonconsensual sex act (i.e., rape), an attempted nonconsensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal sexual harassment).

3.1.19 Stalking is engaging in a course of conduct 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.

4. Prohibited Conduct

NCCU prohibits Sexual Misconduct as described in this Policy and other unwelcome behaviors of any kind. Sexual Misconduct includes, but is not limited to Sexual or gender-based Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking. Sexual or gender-based Harassment may include unwelcome sexual advances, requests for sexual favors and other verbal, physical, or electronic conduct of a sexual nature that creates a hostile, intimidating, or abusive environment. Sexual assault and sexual violence are forms of sexual or gender based harassment that involve having or attempting to have sexual contact with another individual without consent.

5. Title IX Coordinator

The NCCU employee designated to coordinate the University’s compliance with Title IX is the Director of EEO and Employee Relations in the Department of Human Resources. Inquiries or concerns about Title IX may be referred to the University’s Title IX Coordinator:

Ms. Ann Penn
Interim Director of EEO and Employee Relations
Human Resources
1801 Fayetteville Street
Durham, NC 27707
(919) 530-6681
TitleIX@nccu.edu

The role of the Title IX Coordinator is to ensure compliance with federal and state regulations on Title IX. The Title IX Coordinator oversees the University’s investigation, response to, and resolution of all reports of sexual misconduct.

6. Reporting Options and Confidentiality

NCCU encourages reports of sexual misconduct so the Complainant can receive the support they need, and so the University can respond appropriately. To the extent possible, NCCU will uphold confidentiality of all parties involved in an alleged act of sexual misconduct. Different employees on campus have different abilities to maintain a Complainant’s confidentiality.
6.1 Privileged Communications vs. Non-Privileged Communications

6.1.1 The University encourages **Complainants** to talk to a University employee about what happened so he/she can get the support they need, and so the University can respond appropriately. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” Other employees are required to report all the details of an incident (including the identities of both the **Complainant** and **Respondent**) to the **Title IX Coordinator**. A report to these employees (called “responsible employees”) constitutes a report to the University. A responsible employee includes any employee who has the authority to take action to redress the misconduct; has the duty to report misconduct; or is someone a student could reasonably believe has that authority or responsibility. When a report is made to a responsible employee, the University has an obligation to investigate and take appropriate action. Complete confidentiality can only be guaranteed when a concern is shared with an employee during a “privileged communication.” This person is considered a confidential resource. In most cases, information reported to a confidential resource will remain confidential and will not be shared with anyone. However, in certain limited circumstances, a confidential resource must report the information shared with him or her by a Complainant. For example, a confidential resource may need to share otherwise confidential information where an imminent danger to the student or another individual exists in the opinion of the professional staff or administrator. In addition, all University employees are required by North Carolina law to report abuse or neglect upon a child or any disabled person.

6.1.2 Professional, licensed counselors who provide mental health counseling or pastoral counseling to members of the school community as a part of their official employment duties are not required to report any information about an incident to the **Title IX Coordinator** without a Complainant’s permission. A list of confidential resources can be found in **Appendix A**. All other University employees are required to report all details to the Title IX Coordinator.

6.2 Obligations of the University Upon Receipt of Complaint

The University will investigate all allegations that may constitute prohibited **sexual misconduct**. Any person seeking information or guidance concerning potential sexual misconduct will be advised that the University may need to take action once informed of an allegation whether or not the person wants to pursue a complaint. A **Complainant** who speaks to a professional counselor, i.e., a **confidential resource**, must understand that, if the Complainant wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged **Respondent**. Even so, the professional counselor will still assist the Complainant in receiving support and resources, including supports outlined in this Policy. A Complainant who at first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. Assistance and support will still be provided to the Complainant should they decide to do so. If the Complainant chooses to file criminal charges, the University has an established relationship with University Police and local law enforcement in which the University and University Police collaborate to support the best
interest of the Complainant. To avoid repetitive interviews and duplication, some information collected in the University’s investigation may be shared with University Police.

6.3 Confidentiality Request - Factors Considered by University

If the Complainant does not wish to proceed with formal charges and/or requests the complaint remain confidential, Title IX still requires the University to investigate and take reasonable action in response to the Complainant's information. The Title IX Coordinator will inform the Complainant that the University's ability to respond may be limited and may weigh the Complainant's request(s) against the following factors: the seriousness of the alleged sexual misconduct; whether there have been other complaints of sexual misconduct against the same Respondent; and the Respondent’s right to receive information about the allegations if the information is maintained by the University as an "education record" under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

Even if the Complainant does not wish to proceed with formal charges because the Complainant insists on confidentiality or requests that the complaint not be investigated, the University reserves the authority to take appropriate action.

6.4 Confidentiality Request – Circumstances When Not Honored

There are times when the University may not be able to honor a Complainant’s request for complete confidentiality in order to provide a safe, non-discriminatory environment for all students and employees. The Title IX Coordinator has been designated as the individual who will evaluate requests for confidentiality. If it is determined that the University cannot maintain the Complainant’s confidentiality, the University will inform the Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The University will remain ever mindful of the Complainant’s well-being, and will take ongoing steps to protect the Complainant from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the Complainant, whether by students or University employees, is strictly prohibited.

7. Investigation Procedures and Protocols (Complaints, Investigations, Hearings and Appeals)

7.1 Role of Title IX Coordinator

The Title IX Coordinator oversees the University's compliance with Title IX. The duties and responsibilities of the Title IX Coordinator include, but are not limited to, serving as the chief investigator of Title IX violations and allegations; coordinating investigation of Title IX violations and allegations by Deputy Title IX Coordinators and/or Title IX Investigator(s); assisting in development of relevant policy, regulations and rules; working to prevent and remediate sexual misconduct; serving as the contact for government inquiries; and ensuring the campus, including Deputy Title IX Coordinators and Title IX Investigator(s), receives all necessary training. Students with a concern about sexual misconduct may contact the Title IX Coordinator to discuss options for handling the situation, including filing a complaint. Students may also contact
their department head or other appropriate University administrator for assistance. **Responsible employees** must promptly contact the Title IX Coordinator when notified of a concern that may implicate a violation of this Policy using the information below:

Ms. Ann Penn  
Interim Director of EEO and Employee Relations  
Human Resources  
1801 Fayetteville Street  
Durham, NC 27707  
(919) 530-6681  
TitleIX@nccu.edu

7.2 Deputy Title IX Coordinators

7.2.1 The **Title IX Coordinator** has appointed the following Deputy Title IX Coordinators to receive complaints of **sexual harassment**, **sexual assault**, **sexual violence** or other **sexual misconduct**, against students and employees:

7.2.1.1 Ms. Daphine Richardson, EEO and Employee Relations Consultant, (919) 530-6920, drichardson@nccu.edu;

7.2.1.2 Dr. Ruth Gilliam Phillips, Executive Director, Student Health Center, (919) 530-7908, ruth.gilliam.phillips@nccu.edu;

7.2.1.3 Ms. Sidney Rice, Residential Life Area Coordinator (Ruffin Hall), (919) 530-6527, srice6@nccu.edu;

7.2.1.4 Mr. Ferreli McGilvary, Director, New Student & Family Programs, (919) 530-6336, fmcgilvary@nccu.edu;

7.2.1.5 Ms. Jashell Mitchell, Assistant Athletic Director, (919) 530-5431, jmitch50@nccu.edu;

7.2.1.6 Ms. Tiffany Tuma, Coordinator, Student Conduct and Community Standards, (919) 530-5287, ttuma@nccu.edu;

7.2.1.7 Mr. Darrien Jerman, Fraternity/Sorority Life Coordinator, (919) 530-6316, djberman@nccu.edu; and

7.2.1.8 Dr. Michelle Mayo, Associate Provost for Academic Programs and Research, (919) 530-7149, mlmayo@nccu.edu.

7.2.2 The Deputy Title IX Coordinators will communicate, consult with, and work collaboratively with the Title IX Coordinator who has ultimate responsibility for compliance with Title IX.

7.3 Title IX Investigator

7.3.1 The Title IX Investigator oversees many aspects of the investigation, including conducting interviews with all parties and witnesses, performing fact-gathering and investigative functions, determining whether the report or complaint alleges conduct that may constitute prohibited sexual misconduct, maintaining information and documentation related to the investigation in a secure manner, and drafting the final report.
7.3.2 The Title IX Investigator can be contacted using following information: Mr. Selby Lo, Title IX Investigator, (919) 530-7944, slo2@nccu.edu.

7.4 Self-Reporting and Third Party Reporting

Complainants may self-report incidents of sexual misconduct directly to the Title IX Coordinator. As discussed in the “Reporting Options and Confidentiality” section above, Complainants may also self-report incidents of sexual misconduct to a responsible employee. Third party complaints of sexual misconduct may be reported to the Title IX Coordinator or any responsible employee from a variety of sources, including students, faculty and staff.

7.5 Anonymous Reporting

The University encourages a Complainant to include his or her name on a Title IX report for the reasons included in Sections 6.3 and 6.4 of this Policy. However, an anonymous report may be submitted via the public incident report form found on the University’s website. Anonymous reports will be investigated in the same manner as those reported directly to the Title IX Coordinator or responsible employee. Once a “responsible employee” has either actual or constructive notice of an alleged act of sexual misconduct, he or she must report the action to the Title IX Coordinator.

7.6. Complaint Procedures

7.6.1 Upon receipt of notice of any allegation of sexual misconduct, the Title IX Coordinator will review the complaint and consult with the designated Deputy Title IX Coordinator or Title IX Investigator to establish a preliminary timeline to both parties. The investigation timeline will be determined based on an estimation of the time necessary to conduct a fair, impartial investigation in a timely matter to provide all parties with resolution.

7.6.2 Complaints filed with the Title IX Coordinator, a Deputy Title IX Coordinator, or responsible employee must be in writing and include the following information:

7.6.2.1 Date of incident;

7.6.2.2 Location of incident;

7.6.2.3 A description of the incident in as much detail as possible;

7.6.2.4 A description of the action/remedy the Complainant is seeking.

7.6.3 When possible, complaints filed with the Title IX Coordinator should also include the following information:

7.6.3.1 Name, position/title, and contact information (address, email address, and phone number) of Complainant;

7.6.3.2 Time of incident;

7.6.3.3 Specific location of the incident;

7.6.3.4 Name(s) and identifying information (gender, email address, date of birth, phone number, residence hall/address) of person(s) responsible for the alleged violations or other witnesses and involved parties; and
7.6.3.5 Any background information that the Complainant believes to be relevant, including possible witnesses, photos, videos, emails, text messages, or other supporting documents.

7.6.4 The Complainant may use the Title IX complaint form, which can be found on the University’s website to provide the requested information. Complainant may also make a report in person, by telephone, in writing, by email, electronically, or anonymously.

7.6.5 Complainants are encouraged to file a complaint as soon as possible; however, a complaint may be filed at any time, regardless of the length of time between the alleged misconduct and the decision to file a complaint. Complainants should be aware that the more time between the alleged misconduct and the filing of a report may result in the loss of relevant evidence and testimony and may impair the University’s ability to effectively enforce this Policy.

7.6.6 Notification of Respondent(s): Upon receipt of a complaint, the Respondent will be notified of the pending investigation. The Respondent, upon notification of the complaint, will have ten (10) business days to contact the Title IX Coordinator. Unless the Complainant requests confidentiality, the Respondent will be provided with all of the information about the complaint set forth in Section 7.6.2 and Section 7.6.3 upon receiving notification of the complaint, to the extent that the information has been provided to the University. The Respondent will also be informed of the specific section(s) of the Student Code of Conduct that was allegedly violated and the conduct allegedly constituting the potential violation.

7.7 Interim Protective Measures

7.7.1 When a report is received, NCCU may take interim measures to ensure a safe and stable environment pending the final outcome of the investigation. These measures will allow the parties involved equal access to educational programs and activities while the matter is being investigated. The University, through its Sexual Assault Response Team (SART), will make an immediate assessment of any risk of harm to the parties, any other individuals, or to the broader campus community and will take the necessary steps to address those risks. These steps may include establishing interim protective measures to provide for the safety of the parties involved, any other individuals, and the campus community. Interim protective measures may include the ability to change work schedules; change work assignments; change work locations if deemed necessary; change housing or dining facilities; alter academic schedules; withdraw from/retake a class without penalty; access academic support, such as tutoring; issue no contact orders; give special consideration for absences related to the incident(s) (e.g. medical appointments, mental health appointments, police interviews, legal proceedings, campus judicial proceedings, grievance and appeals procedures for employees); and change living arrangements or course schedule. Interim measures may be adjusted throughout the investigation based on an assessment of the evolving needs of the parties.

7.8 Investigation

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7.8.1 Assignment to Deputy Title IX Coordinator or Title IX Investigator

The University will conduct a prompt, equitable and impartial investigation of each complaint. The Title IX Coordinator may assign the investigation to the appropriate Deputy Title IX Coordinator or a Title IX Investigator to begin the investigation process. The investigation will consist of interviewing all parties and witnesses, compiling statements, verifying statements, gathering/obtaining documentation and evidence, if such exists, conducting research, and drafting a final report.

7.8.2 Initial Meeting with Parties

7.8.2.1 The Title IX Coordinator or assigned Deputy Title IX Coordinator/Title IX Investigator will notify the Complainant in writing to initiate the investigation within ten (10) business days of receiving a report and schedule an initial meeting with the Complainant. During the initial meeting, the Complainant will be given an overview of the investigative process, an explanation of their rights and options, and information on support resources, included interim measures (if needed and requested). The Complainant may bring an attorney, advisor or support person to the initial meeting. The Complainant also has the right to utilize the attorney or advisor throughout the course of the investigation, as well as during the hearing and appeal process, as applicable. Notification that an attorney will accompany a Complainant to a meeting or hearing must occur no later than four (4) business days before a scheduled meeting or hearing. A University employee who may accompany a Complainant to a scheduled meeting or hearing is reminded of the University policies regarding leave for SHRA and EHRA Non-Faculty employees. University policy and procedure related to confidentiality and privacy will be discussed to ensure the Complainant understands the University’s obligations and limitations regarding protection of their identity. A summary statement from the Complainant regarding the allegations that resulted in the complaint will be generated at the conclusion of the initial meeting.

7.8.2.2 The Respondent has the right to meet with the investigator and has the right to have an attorney, advisor, or support person present in the meeting. The Respondent also has the right to utilize the attorney or advisor throughout the course of the investigation, as well as during the hearing and appeal process, as applicable. Notification that an attorney will accompany a Respondent to a meeting or hearing must occur no later than four (4) business days before a scheduled meeting or hearing. A University employee who may accompany a Respondent to a scheduled meeting or hearing is reminded of the University policies regarding leave for SHRA and EHRA Non-Faculty employees. During the initial meeting, the Respondent will be given an overview of the investigation process, an explanation of their rights and options, and information on support resources, included interim measures (if needed and requested). At the conclusion of the investigation, the Respondent will be notified of the outcome, and if applicable, the recommendations for sanctions.

7.8.3 Witness Contact

All additional witnesses or affiliated individuals will be contacted for a statement prior to the conclusion of the investigation. The investigator reserves the right to interview all witnesses necessary to conduct a thorough
investigation.

7.8.4 Recordkeeping

A file will be created for each investigation, and the file will consist of the complaint, statements of the parties and witnesses, investigator notes, all documentation and evidence, and the investigator’s findings, conclusions and final report (including exculpatory and inculpatory evidence) which summarizes whether or not the information obtained during the investigation supports a finding of responsibility that the Respondent has violated this Policy. In the interest of preserving evidence, the investigator will work with parties to obtain originals or copies of documents, videos, pictures, etc. at the outset and maintain those in the case file.

7.8.5 Status Updates/Notice of Outcome

7.8.5.1 Both the Complainant and Respondent will be given periodic status updates, as available, throughout the investigation. Each case is unique, and the process for handling the incident will be impacted by factors such as the complexity of the investigation, the scope of the allegation, the parties’ schedules and availability, the academic calendar and any concurrent criminal investigation. Although the University will make best efforts to complete the process in a timely manner, in the event that the investigation and resolution exceed the timeframe initially established by the investigator, the University will notify all parties of the need for additional time, the reason that extended time is required, and an estimated timeframe for completion of the process. In no case will these timeframes or any extensions of time delay University-provided support services, resources or other measures for either party.

7.8.5.2 Prior to completion of the investigation, the investigator will send a final notice to both parties informing them of the information that has been collected during the course of the investigation and will provide both parties an opportunity to supplement any information, as necessary. Upon completion of the investigation, the investigator will share his or her findings with the Title IX Coordinator. The Title IX Coordinator will send a Notice of Outcome to both the Complainant and the Respondent within ten (10) business days of completion of the Title IX investigation.

7.8.6 Evidentiary Standard

The evidentiary standard used in the investigation is a “preponderance of the evidence” (i.e., it is more likely than not that the sexual misconduct occurred, more than 50%) standard of proof.

7.8.7 Referrals and Appeals

The Notice of Outcome will indicate whether the Title IX Coordinator will refer the case to the Office of Student Conduct and Community Standards for students or to the appropriate administrative or academic department for employees, as appropriate. Student disciplinary referrals to the Office of Student Conduct and Community Standards will follow the process outlined in this Policy and Section 9 of the Student Code of Conduct ("Code") regarding the notification of conduct allegations and charges, the student conduct
conference, hearings, sanctions and appeals. Employees may grieve the outcome of the internal administrative investigation and recommended disciplinary action by following the established grievance procedures.

7.9 Student Conduct Process

7.9.1 Student Notification of Charges

When the Title IX Coordinator refers a case to the Office of Student Conduct and Community Standards, the Office will conduct a preliminary screening pursuant to Section 9.1.2 of the Student Code of Conduct. Pursuant to Sections 9.1.3 and 9.1.4 of the Code, the Respondent will be provided with written notification of charges that will specify all alleged violations of the Code, which will include but may not be limited to, offenses covered under this Policy.

7.9.2 Resolution of Disciplinary Actions

7.9.2.1 A student Respondent may choose a means of resolution of any disciplinary charges consistent with Sections 9.2 and 9.3 of the Code. The Respondent may choose to plead responsible to all charges and waive his/her right to a hearing before a judicial panel. In that event, the Director of SCCS, or his/her designee, will consult with appropriate officials, inclusive of the Dean of Students, and other parties involved and determine the appropriate sanction. A written document stating that the Respondent waives his/her right to a hearing and will accept the sanctions levied by the Director, or his/her designee, must be signed by the Respondent and made a part of the record.

7.9.2.2 If a student chooses to move forward with a judicial hearing, a three-person panel consisting of faculty and staff members of the University Committee on Student Conduct will hear the case. The hearing will proceed in accordance with Section 9.3.3 of the Code. Both the Complainant and the Respondent shall have the right to attend the hearing. All witnesses, including the parties, may be cross-examined. However, the parties will not be allowed to personally question or cross-examine each other during the hearing; all cross-examination of parties must be done through the Committee Chair.

7.9.3 Notification to Parties

Both the Complainant and Respondent will be informed, in writing, of the final results of any University disciplinary proceeding regarding a violation of this Policy. Such notification will include the name of the Complainant, the Policy and Code violation, the key findings that supported the conclusion, a description of the disciplinary action taken, and the rationale for the decision and the disciplinary action imposed.

7.9.4 Student Appeals

7.9.4.1 Both the Complainant and Respondent will have the right to appeal the outcome of a judicial hearing in Title IX and Sexual Misconduct cases in accordance with Section 11 of the Code.

7.9.4.2 In order to appeal, the party must file the petition by 5pm on the third (3rd) business day after receiving written notification of the decision of responsibility or no responsibility.
7.9.4.3 Appeals may only be brought under two grounds: (1) on a claim of error in the hearing procedure or (2) on a claim of new evidence or information material to the case which was not available at the time of the hearing.

7.9.4.4 The appeal should include the following information:

7.9.4.4.1 a statement for the grounds for appeal, which at a minimum should contain a list of alleged errors in the decision or procedure, statement of why the decision or sanctions are in error and supporting documentation, including specific dates, details, and any other information in support of the claim if newly available information is the grounds for appeal, and;

7.9.4.4.2 a requested remedy.

7.9.4.5 Appeals will be shared with the other party, who will have three (3) business days upon notification to provide a written response to any new information that has been presented in the appeal. A decision will be rendered by the Vice Chancellor for Student Affairs within ten (10) business days following the receipt of the appeal.

7.10 SHRA Employees, Faculty and EHRA Non-Faculty Employees

If the [Title IX Coordinator] refers a case involving an SHRA or EHRA-Non-Faculty Respondent to the appropriate department, division, or academic unit, any disciplinary action taken will be in accordance with the applicable employment policies. Referrals of faculty members will be handled in accordance with the NCCU [Faculty Handbook] in effect at the time of the referral.

7.11 University Visitors and Contractors

Allegations of sexual misconduct by University contractors and visitors will be investigated and addressed in conjunction with the University’s EEO Officer and Campus Police. Contractors, visitors, or others unaffiliated with the University who have been found in violation of this Policy may be subject to sanctions to include, but not be limited to, an interim or permanent trespass from campus.

7.12 Coordination with Other Procedures

7.12.1 In all complaints of alleged sexual misconduct, the University will take prompt action to prevent continuing or future acts of sexual misconduct. Such action may include Interim Suspension of the [Respondent] as outlined in the [Student Code of Conduct].

7.12.2 Responsible Action

The welfare of students in our community is of paramount importance. Students both on and off-campus may need assistance. NCCU encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others for fear that they may get in trouble. For example, a student who has been drinking underage might hesitate to help take a sexual misconduct complainant to University Police. It is in the best interest of this community that as many Complainants as possible choose to report sexual misconduct to University officials. NCCU pursues a policy of
limited immunity for Complainants and students who offer help to others in need in accordance with the University’s Medical Amnesty Regulation.

7.13 Retaliation

Retaliation against an individual who reports or complains of sexual misconduct or who provides information in a sexual misconduct investigation or proceeding, including witnesses, is prohibited. Any allegations of retaliation will be promptly investigated and will result in disciplinary action if substantiated.

7.14 False Claims

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

8. Options for Assistance and Support Services

8.1 Immediate and Ongoing Assistance

Students who have experienced an act of sexual misconduct may receive support from a variety of sources, including the Office of Student Conduct and Community Standards, the Women’s Center, Student Health Center, Counseling Center, NCCU School of Law Office of Wellness, Durham Crisis Response Center, and the Victim Assistance Program for the City of Durham. NCCU provides 24-hour assistance to those who have been affected by any form of sex discrimination through the NCCU University Police (Dial Ext. 6106 from a campus phone or (919) 530-6106 from a non-campus phone) and the Durham Crisis Response Center Crisis Line ((919) 403-6562).

8.1.1 NCCU urges all of its students to become familiar with the available support services and to obtain this support as needed. University students are eligible to receive support regardless of whether they elect to pursue criminal, civil, or administrative remedies under these procedures. A more detailed resource list is provided in Appendix B.

8.1.2 All reports and information concerning conduct that is inconsistent with this Policy will be handled discreetly, with the facts made available to those who need to know to respond, investigate, and/or resolve the matter.

9. Education and Prevention Programs

The University is committed to offering educational programs to promote awareness and prevention of sexual misconduct. Educational programs will include information on the University’s policies and procedures; prohibited conduct; discussion of relevant definitions, including consent; resources and reporting options, and information about risk reduction. Incoming first year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will also have ongoing opportunities for training and education.

10. Annual Review

This Policy is maintained by the EEO/Employee Relations office. The Policy will be reviewed annually by the EEO Officer and Title IX Coordinator with the assistance of an advisory group. The annual review will capture evolving legal
requirements, updated support and resources available, and assess the effectiveness of the Policy in the NCCU community. The review will include members of the NCCU community to provide feedback to be updated in the policy as well. Annually, the EEO Officer and Title IX Coordinator will create a report regarding the persons affected by sexual misconduct and the effectiveness of the Policy throughout campus.

Appendix A: Privileged & Confidential Resources

NCCU Counseling Center

Andrew O. Elman  
Counselor  
(919) 530-6879  
aelman@nccu.edu

Angelyn Fánlo  
Alcohol and Other Drug Education/Clinical Counselor  
(919) 530-7087  
efanlo@nccu.edu

Jody Grandy  
Outreach Coordinator/Clinical Counselor  
(919) 530-5286  
jgrandy1@nccu.edu

Dr. Raé Lundy  
Psychologist, Group Coordinator  
(919) 530-6728  
rlundy1@nccu.edu

Dr. Carolyn Moore  
Director of the Counseling Center  
(919) 530-5294  
cmoore@nccu.edu

NCCU School of Law, Office of Wellness

Brett Bowers  
Wellness Director  
(919) 530-5156  
brett.bowers@nccu.edu

Department of Spiritual Development and Dialogue

Gloria Winston-Harris  
Director  
(919) 530-6201  
gwharris-t@mail.nccu.edu

Appendix B: Additional Resources for Sexual Misconduct
Anyone who has experienced sexual misconduct, sexual violence or dating violence is encouraged to seek help immediately, including medical assistance, confidential counseling, and legal assistance. NCCU Campus Police will provide a safe place, arrange medical assistance, and offer information regarding on and off campus resources. Information on resources that are available on and off campus are listed below. Please feel free to contact the Title IX Coordinator if additional assistance is needed.

**Emergency Response**

Local Emergency Response  
Dial 911

NCCU Campus Police  
(919) 530-6106  
[http://www.nccu.edu/health-safety/police/](http://www.nccu.edu/health-safety/police/)

Durham County Sheriff’s Office  
(919) 560-0897  

Orange County Sheriff’s Office  
(919) 245-2900  

Wake County Sheriff’s Office  
(919) 856-6900  
[http://www.wakegov.com/sheriff/Pages/default.aspx](http://www.wakegov.com/sheriff/Pages/default.aspx)

**Medical Treatment**

NCCU Student Health Center  
(919) 530-6317  
After hours: (919) 698-6309  
[www.nccu.edu/studenthealth/services.cfm](http://www.nccu.edu/studenthealth/services.cfm)

* Testing for pregnancy and sexual transmitted diseases  
* For testing without police involvement, ask for Gynecological exam with full STD screening

Duke Regional Hospital  
3643 N. Roxboro Road  
Durham, NC 27704  
(919) 470-5345  
[www.dukeregional.org/](http://www.dukeregional.org/)

Duke University Hospital  
2301 Erwin Road  
Durham, NC 27710  
(919) 684-2413  
[www.dukemedicine.org](http://www.dukemedicine.org)

Duke Raleigh Hospital  
3400 Wake Forest Road
Raleigh, NC 27609  
(919) 954-3000  
www.dukeraleighhospital.org

**Employee Assistance**

Compsych Guidance Resources  
(866) 301-9634

NCCU Department of Human Resources  
(919) 530-6334

**Additional Support**

NCCU Women’s Center  
(919) 530-6811  
http://www.nccu.edu/womenscenter/

NCCU Counseling Center  
(919) 530-7646  
After Hours: (919) 698-9914  
http://www.nccu.edu/counseling/index.cfm

NCCU School of Law Office of Wellness  
(919) 530-5156  
http://law.nccu.edu/students/office-of-wellness/

Durham Crisis Response Center  
206 N. Dillard Street  
Durham, NC 27701  
(919) 403-6562  
www.durhamcrisisresponse.org/

Legal Aid of NC Durham  
201 West Main Street, Suite 400  
Durham, NC 27701  
(919) 688-6396  
www.legalaidnc.org

Durham County Clerk of Court (Criminal Filings Division)  
921 Holloway Street  
Durham, NC 27701  
(919) 808-3002  
http://www.nccourts.org/county/durham/staff/clerk.asp

Office of Student Conduct and Community Standards  
(919) 530-6311  
www.nccu.edu/studentconduct

Office of Spiritual Dialogue and Development  
(919) 530-6380  
http://www.nccu.edu/spiritualdevelopment/index.cfm

LGTBA Resource Center  
(919) 530-5545  
http://www.nccu.edu/lgbta/index.cfm