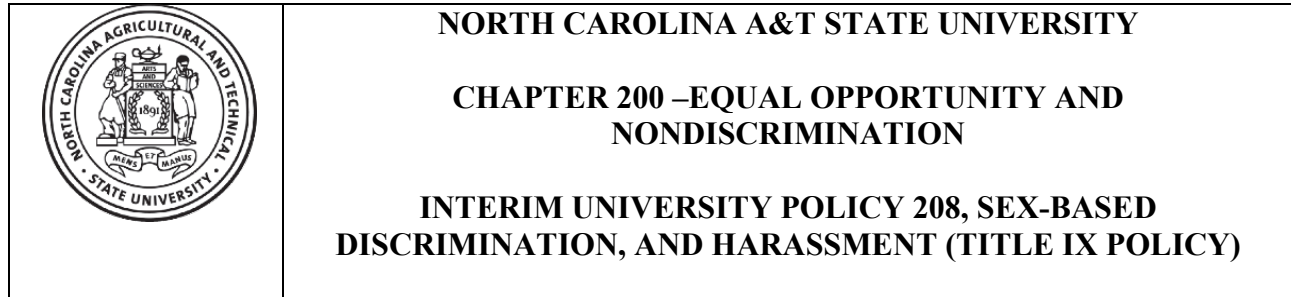


New Policy

This policy supplements University Policy 207, Sexual Harassment, Discrimination, and Misconduct, to comply with the TIX Regulations dated April 19, 2024. It applies to allegations of misconduct occurring on or after August 1, 2024.



SECTION 208.1 POLICY STATEMENT

North Carolina Agricultural and Technical State University (“NC A&T” or “University”) is committed to providing a learning, teaching, and working environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity. As such, NC A&T does not discriminate on the basis of sex and is committed to providing an educational and employment environment free from Sex-Based Discrimination and Harassment. When NC A&T has actual notice of conduct that may constitute Sex-Based Discrimination and Harassment, the University will take prompt and effective action to end any Sex-Based Discrimination and Harassment in its education program or activity, prevent its recurrence, and remedy its effects.

SECTION 208.2 PURPOSE

This Policy prohibits Sex-Based Discrimination and Harassment that violates Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”). Title IX’s Sex-Based Discrimination prohibition extends to claims of discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

SECTION 208.3 SCOPE

This Policy applies to all NC A&T employees, students, volunteers, vendors, and visitors.

SECTION 208.4 JURISDICTION

This Policy applies to reported incidents of Sex-Based Discrimination and Harassment occurring on or after August 1, 2024, against a person in the United States and with the University's education program or activity. Such conduct includes, but is not limited to, reported incidents that occur in any building owned or controlled by a student organization officially recognized by NC A&T and conduct subject to NC A&T’s disciplinary authority. This Policy also applies to Sex-Based hostile

environment under the University's education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the University's Education Program or Activity or outside the United States.

In situations not covered above but where Sex-Based Discrimination and Harassment undermines the security of the University community or the integrity of the educational process or poses a serious threat to self or others, other applicable University procedures for misconduct may apply.

SECTION 208.5 DEFINITIONS

For purposes of this Policy, the following definitions shall apply:

- (1) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by NC A&T.
- (2) "Consent" means an informed, affirmative, voluntary, and mutual agreement to engage in sexual activity. Consent can be given by words or actions, if those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression.
- (3) "Complainant" means a student or employee who was participating or attempting to participate in an education program or activity, and who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment; or a person other than a student or employee who was participating or attempting to participate in an education program or activity who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment.
- (4) "Complaint" means an oral or written request to NC A&T that objectively can be understood as an incident or notification of the incident reported to the University.
- (5) "Director of Title IX Compliance" means the University official primarily responsible for coordinating the University's responses to complaints involving Sex-Based Harassment or Discrimination.
- (6) "Formal Complaint" means a document filed by a Complainant or signed by the Director of Title IX Compliance alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation of Title IX Sex-Based Discrimination or Harassment.
- (7) "Confidential Employee" means a University employee whose communications are privileged under Federal or State law when the information is received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or an employee whom the University has designated as confidential to provide services to persons with respect to information received about Sex-Based Discrimination and Harassment in connection with providing those services.

- (8) “Disciplinary Sanctions” means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated NC A&T’s prohibition on Sex-Based Discrimination and Harassment.
- (9) “Education Program or Activity” means all of the operations of NC A&T, including off-campus properties controlled by recognized student groups that are subject to the University’s disciplinary authority.
- (10) “Party” means Complainant or Respondent.
- (11) “Pregnancy or related conditions” means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- (12) “Respondent” means a person who is alleged to have violated NC A&T’s prohibition on Sex-Based Discrimination and Harassment.
- (13) “Retaliation” means intimidation, threats, coercion, or discrimination against any person by a student, employee, or other person authorized by the University to provide aid, benefit, or service for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing, including in an informal resolution process.
- (14) “Sex Discrimination” means any intentional or unintentional act that results in an individual being excluded from participation in, denied the benefits of, treated differently, or that otherwise adversely affects a term or condition of the individual’s employment or education based upon the individual’s sex/gender.
- (15) “Sex-Based Harassment” means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:
- (a) Quid pro quo harassment where an employee, agent, or other person authorized by the University explicitly or impliedly conditions an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
 - (b) Hostile environment harassment where unwelcome Sex-Based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from an education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the Complainant’s ability to access the education program or activity;
 - (ii) The type, frequency, and duration of the conduct;

- (iii) The Parties' ages, roles within University's education program or activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct;
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other Sex-Based Harassment in the University's education program or activity.
- (c) Specific offenses.
- (i) Sexual Assault (as defined in the "Clery Act" specifically 20 U.S.C. 1092(f)(6)(A)(v));
 - (ii) Dating Violence (as defined in the Violence Against Women Act ("VAWA," specifically 34 U.S.C. 12291(a)(10)) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person:
 - (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (b) Where the existence of such a relationship shall be determined based on a consideration of the length of the relationship; The type of relationship; and the frequency of interaction between the persons involved in the relationship.
 - (iii) Domestic Violence as defined by VAWA (34 U.S.C. 12291(a)(8)) meaning felony or misdemeanor crimes committed by a person who:
 - (a) Is a current or former partner of the victim under the family or domestic violence laws of North Carolina, or a person similarly situated to a spouse of the victim;
 - (b) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (c) Shared a child in common with the victim; or
 - (d) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of North Carolina;
 - (iv) Stalking as defined in VAWA (34 U.S.C. 12291(a)(30)) meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (a) Fear for the person's safety or the safety of others; or
 - (b) Suffer substantial emotional distress.

(15) "Student" means a person who has gained admission to NC A&T.

(16) "Supportive Measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to restore or preserve that Party's access to NC A&T's Education Program or Activity, including measures that are designed to protect the safety of the Parties or NC A&T's educational environment; or provide support during NC A&T's Grievance

Procedure for Sex-Based Discrimination and Sex-Based Harassment or during the informal resolution process.

(17) “Relevant” means being related to the allegations of Sex-Based Discrimination under investigation as part of the grievance procedures.

(18) “Remedies” means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient’s education program or activity limited or denied by Sex-Based Discrimination or Sex-Based Harassment.

SECTION 208.6 REPORTING TITLE IX SEX-BASED DISCRIMINATION AND HARASSMENT

Any person may report Sex-Based Discrimination and Harassment (whether or not the person reporting is the person impacted by the alleged conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Office or Director of Title IX Compliance, or by any other means that results in the Director of Title IX Compliance receiving the person’s verbal or written report. The University encourages anyone aware of an incident of Sex-Based Discrimination or Harassment to report the incident immediately. Reports may be made at any time (including during non-business hours) to:

Director of Title IX Compliance
Title IX Office
Sebastian Hall
Phone: (336) 500-1803
Email: TIIX@ncat.edu or bmhayes1@ncat.edu

University Police Department
Ward Hall
Phone: (336) 334-7128
24-Hour Emergency Number: (336) 334-7675
Anonymous Tip Line: (336) 334-7879

There is no time limit for reporting Sex-Based Discrimination and Harassment for filing a complaint with the University under this Policy. NC A&T encourages reporting any incident as soon as possible to maximize the University’s ability to respond to the report. If the Respondent is no longer a student or employee at the University when a complaint is filed, the University may be unable to take action against the Respondent. However, the University will investigate the complaint to the best of its ability and take steps to comply with its obligations under Title IX and to provide a safe environment for the University community.

Complainants who do not want to formally report incidents of Sex-Based Discrimination to the University may still meet with a representative of the Title IX Office to receive supportive measures or speak confidentially with the Student Health Center, Counseling Services, or Employee Assistance Program. Information on accessing University and community resources, including emergency and ongoing assistance, physical health, mental health, and victim-advocacy services,

options for reporting to the University and/or law enforcement, and available support with academics, housing, and employment are available in University Policy 208, Appendix A Title IX Sex-Based Harassment and Appendix B Title IX Sex-Based Discrimination.

SECTION 208.7 RETALIATION

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured under this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing under this Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve Sex-Based Discrimination or Sex-Based Harassment, constitutes retaliation.

SECTION 208.8 COMPLIANCE

Any student or employee who violates this Policy may be subject to disciplinary action according to the Student Conduct Regulations or applicable employee disciplinary policy.

SECTION 208.9 RELATIONSHIP TO OTHER POLICIES

Allegations of misconduct that do not meet the definition of Sex-Based Discrimination or Harassment under this Policy may be subject to other University policies, including but not limited to the Student Conduct Regulations, University Policy 209, Unlawful Harassment and Discrimination, or the Campus Violence Policy. Questions about whether alleged misconduct falls under this, or another policy, should be directed to the Director of Title IX Compliance by phone at 336-285-3770 or email at TitleIX@ncat.edu.

Nothing in this Policy is intended to (1) restrict any rights that would otherwise be protected from government action by the First Amendment of the United States Constitution; or (2) deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution; or (3) restrict any other rights guaranteed against government action by the United States Constitution; or (4) may be read in derogation of any person's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* or any of its implementing regulations.

POLICY HISTORY:

Interim Policy Eff. Date: August 1, 2024

AUTHORITY: Chancellor

POLICY OWNER: Vice Chancellor for Legal Affairs, Risk, and Compliance

RESPONSIBLE OFFICE: Office of Title IX Compliance

RESOURCES:

Appendix A- Title IX Sex-Based Discrimination to University Policy 208, Title IX Sex-Based Discrimination and Harassment Policy

[University Policy 207, Sexual Harassment, Discrimination, and Misconduct Workplace Violence Policy](#)

[University Policy 209, Unlawful Harassment and Discrimination](#)

[NC A&T Student Conduct Handbook](#)

[SHRA Grievance Policy](#)

[EHRA Non-Faculty Grievance Policy](#)

[Faculty Grievance Procedure](#)

[Title VII of the Civil Rights Act of 1964](#)

[Title IX Regulations \(April 19, 2024\)](#)

[UNC Policy Manual \(“Section 1300.11\[R\]”\)](#)

[Office for Civil Rights | U.S. Department of Education](#) | [U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)



NORTH CAROLINA A&T STATE UNIVERSITY

GRIEVANCE PROCESS FOR TITLE IX SEX-BASED DISCRIMINATION

(Effective for incidents that occur on or after August 1, 2024)

Appendix A to University Policy 208, Title IX Sex-Based Harassment

I. Reporting Sex-Based Harassment

A. How to Report

Any person may report Sex-Based Harassment (whether or not the person reporting is the person impacted by the alleged conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Office or Director of Title IX Compliance, or by any other means that results in the Director of Title IX Compliance receiving the person's verbal or written report. Reports may be made at any time (including during non-business hours) to:

Breona Hayes, Ph.D.
Director of Title IX Compliance
Title IX Office
Sebastian Hall
North Carolina A&T State University
Phone: (336) 500-1803
Email: TIX@ncat.edu or bmhayes1@ncat.edu
Website: <https://www.ncat.edu/legal/title-ix/index.php>

Emergency campus safety/law enforcement assistance is available both on and off campus. Individuals are encouraged to contact law enforcement as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense. University community members are encouraged to immediately contact the NC A&T University Police Department (UPD) in order to report potential criminal conduct to law enforcement. However, a Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the Title IX Office will assist a Complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to the health or safety of any University community member, the University may independently notify law enforcement.

University Police Department
Ward Hall
Phone: (336) 334-7128
24-Hour Emergency Number: (336) 334-7675
Anonymous Tip Line: (336) 334-7879

When making a report, include as much detail as possible about the incident, such as the date, time, location, individuals involved, witnesses, and other individuals who were present.

B. Confidential Reports

Certain employees, known as confidential employees, are not required to share information about reports of Sex-Based Harassment with the Director of Title IX Compliance. This allows complainants and victims to seek help and Report incidents without initiating a formal process. Confidential Reports can be made to:

Counseling Services

Murphy Hall, Room 109
Phone: (336) 334-7727

Alvin V. Blount, Jr Student Health Center

112 North Benbow Road
Phone: (336) 334-7880

C. Non-Confidential Reports

- (1) All nonconfidential employees who have (a) authority to institute corrective measures or (b) responsibility for administrative leadership, teaching, or advising must notify the Director of Title IX Compliance when the employee learns of conduct that “may constitute Sex-Based Harassment.”
- (2) All other nonconfidential employees must:
 - i. Report known potential Sex-Based Harassment to the Director Title IX Compliance, or
 - ii. Provide the contact information of the Director of Title IX Compliance and information about how to make a Report of Sex-Based Harassment.

D. External Reporting

Student and employee reports regarding Sex-Based Harassment may be filed with:

**Washington DC (Metro)
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1475**

Phone: 202-453-6020
TDD: 800-877-8339
Email: OCR.DC@ed.gov

II. Definitions

- (1) “Consent” means an informed, affirmative, voluntary, and mutual agreement to engage in sexual activity. Consent can be given by words or actions, if those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant’s sex, sexual orientation, gender identity, or gender expression.
- (2) “Confidential Employee” means a University employee whose communications are privileged under Federal or State law when the information is received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or an employee whom the University has designated as confidential to provide services to persons with respect to information received about Sex-Based Discrimination and Harassment in connection with providing those services.
- (3) “Disciplinary Sanctions” means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated NC A&T’s prohibition on Sex-Based Discrimination and Harassment.
- (4) “Relevant” means being related to the allegations of Sex-Based Harassment under investigation as part of the grievance procedures.
- (5) “Remedies” means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient’s education program or activity limited or denied by Sex-Based Harassment.

III. Procedural Guarantees

- A. NC A&T will treat Complainants and Respondents equitably.
- B. NC A&T requires that the Director of Title IX Compliance, Investigators, or Decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Decisionmaker may be the same person as the Director of Title IX Compliance or Investigator.
- C. NC A&T presumes that the Respondent is not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of the Grievance Procedure.
- D. NC A&T will take reasonable steps to protect the privacy of the Parties and witnesses during the Grievance Procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including speaking to witnesses, consultation with advisors or other resources, or otherwise prepare for or participate in the Grievance Procedures. The Parties cannot engage in retaliation, including against witnesses.

IV. Amnesty

- (1) N.C. A&T encourages reporting of Sex-Based Harassment, even when the Complainant and/or witnesses may have violated policies themselves.
- (2) Witnesses or Complainants are sometimes hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct or other policy violations, such as underage drinking at the time of the incident.

- (3) In general, the University will not pursue disciplinary action against an individual who makes a good faith report about Sex-Based Harassment as a Complainant or witness for personal consumption of alcohol or other drugs (underage or illegal), as long as the misconduct did not endanger the health or safety of others. The University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

V. Disability Accommodations

A. University's Obligations

This Title IX Grievance Process does not alter NC A&T's obligations under Federal or State disability laws, including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities from the Director of Title IX Compliance before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure.

The Director of Title IX Compliance will not affirmatively provide disability accommodations not specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities. Disability accommodations are addressed to ensure that students with disabilities have equal access to educational programs and activities.

VI. Supportive and Interim Measures

A. Supportive Measures

NC A&T is required to offer supportive measures, as appropriate, to restore or preserve a party's access to the University's programs or activities. Complainants who Report allegations of Sex-Based Harassment have the right to receive supportive measures from NC A&T regardless of whether they file a Formal Complaint. Supportive measures are non-disciplinary and non-punitive and may vary depending upon what is reasonably available at NC A&T.

As appropriate, supportive measures may include but not be limited to:

- (1) Counseling services
- (2) Extensions of deadlines or other course-related adjustments
- (3) Modifications of work or class schedules
- (4) Campus escort services, as available
- (5) Mutual No-Contact Orders
- (6) Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- (7) Leaves of absence

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or NC A&T's educational environment or to provide support during NC A&T's Sex-Based Harassment Grievance process or

during informal resolution under these Procedures.

B. Interim Measures

Interim measures are intended to ensure the safety and well-being of the individuals involved in the campus community and may be implemented while a complaint or investigation is pending. These measures may include changes in class schedules, housing arrangements, or other adjustments, including emergency removal or administrative leave.

(1) Emergency Removal

A respondent may be removed from campus if the removal can be justified through an individualized safety and risk analysis that there is an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations.

(2) Administrative Leave

An employee may be placed on administrative leave pending the results of an investigation, a grievance process, a dismissal decision, and/or other action. NC A&T will provide a fair and equitable process for all parties involved in a Title IX case. This includes ensuring that any measures, such as administrative leave, do not unfairly penalize an individual before the completion of the investigation and resolution process.

VII. Initiating or Filing a Report

A. Who May File a Report

The following people have the right to make a Report of Sex-Based Harassment:

- (1) A Complainant, which includes a student or employee of NC A&T who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under Title IX;
- (2) A person other than a student or employee of NC A&T who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under Title IX at a time when that individual is participating or attempting to participate in a University Education Program or Activity;
- (3) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- (4) The N.C. A&T Director of Title IX Compliance.

B. Formal Complaints Initiated by Director of Title IX Compliance

- (1) In the absence of a Report or the withdrawal of any or all the allegations in a Formal Complaint, and in the absence or termination of an informal resolution process, the Director of Title IX Compliance must determine whether to initiate a Formal Complaint of Sex-Based Harassment. This determination is fact-specific, and the Director of Title IX Compliance must consider:
 - (a) The Complainant's request not to proceed with the initiation of a Report;
 - (b) The Complainant's reasonable safety concerns regarding the initiation of a Report;
 - (c) The risk that additional acts of Sex-Based Harassment would occur if a Formal Complaint was not initiated;
 - (d) The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-Based Harassment and prevent its recurrence;
 - (e) The age and relationship of the Parties, including whether the Respondent is an employee of the University;
 - (f) The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, alleged to have impacted multiple individuals;
 - (g) The availability of evidence to assist a Decisionmaker in determining whether Sex-Based Harassment occurred; and
 - (h) Whether NC A&T could end the alleged Sex-Based Harassment and prevent its recurrence without initiating these Grievance Procedures.
- (2) If after considering these and other relevant factors, the Director of Title IX Compliance determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents NC A&T from ensuring equal access on the basis of sex to its Education Program or Activity, the Director of Title IX Compliance may initiate a Formal Complaint.
- (3) If the Director of Title IX Compliance initiates a Formal Complaint after making this determination, the Director of Title IX Compliance must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

VIII. Format of Report

To the greatest extent possible, a Report (whether oral or written) should include as much detail as possible about the incident, such as the date, time, location, individuals involved, witnesses, and other present individuals. Formal Complaints can be made by email, phone, mail, or in-person. Reports may be made to the Director of Title IX Compliance and

individuals or offices listed in Section I above.

IX. Allegations Potentially Falling Under Multiple Policies

If the alleged conduct, if true, includes conduct that would constitute covered Sex-Based Harassment and conduct that would not constitute covered Sex-Based Harassment, the Title IX Grievance Process will be applied to the investigation and adjudication of only the allegations that constitute covered Sex-Based Harassment. The University shall handle other conduct under other policies or procedures that address and prohibit the non-covered conduct.

X. Consolidation of Formal Complaints

NC A&T may consolidate Formal Complaints of Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of Sex-Based Harassment arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

XI. Notice of Allegations

A. Communication of Notice

The Title IX Office will generally communicate with the parties via their University-issued email addresses and any other contact information provided to the Title IX Office for communication or on file in the University's records.

B. Notice Regarding the Title IX Grievance Process

Upon initiation of NC A&T's Title IX Grievance Process, the Director of Title IX Compliance will notify the Parties of the following:

- (1) NC A&T's Title IX Formal Grievance Process and any informal resolution process;
- (2) Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment, and the date(s) and location(s) of the alleged incident(s);
- (3) That Retaliation is prohibited;
- (4) That the Parties are entitled to an equal opportunity to access the relevant and permissible evidence or an accurate description of this evidence.
- (5) That the Parties are entitled to an equal opportunity to access the relevant and permissible evidence upon the request of any Party; and
- (6) If, during an investigation, NC A&T decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Formal Complaint

that is consolidated, NC A&T will notify the Parties of the additional allegations.

XII. Advisor of Choice

The parties have the right to select an advisor of their choice, who may, but is not required to, be an attorney. The advisor of choice may accompany the Parties to any meeting or hearing they can attend but may not speak for the Party. An advisor of choice is not prohibited from being a witness in the hearing. Advisors are subject to NC A&T's rules of decorum and may be removed from proceedings for failing to conform to the rules.

XIII. Dismissing a Formal Complaint

A. Reasons for Dismissing a Formal Complaint

NC A&T may dismiss a Complaint of Sex-Based Harassment for any of the following reasons:

- (1) The University is unable to identify the Respondent after taking reasonable steps to do so;
- (2) The Respondent is not participating in NC A&T's Education Program or Activity and is not employed by NC A&T;
- (3) The Complainant voluntarily withdraws any or all of the allegations in the Formal Complaint, the Director of Title IX Compliance declines to initiate a Formal Complaint under the bases described in these Procedures, and NC A&T determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment under Title IX or these Grievance Procedures even if proven.

B. Notice of Dismissal of Formal Complaint

- (1) Upon dismissal of a Formal Complaint, NC A&T will promptly provide written Notice of Dismissal and the basis for the dismissal to the Complainant and Respondent (if the Respondent was already notified of the Complaint).
- (2) The Notice of Dismissal will contain information for appealing the dismissal of the Formal Complaint and the time within which an appeal may be filed by either party.
- (3) The Notice of Dismissal will also contain information about the availability of supportive measures.

C. Grounds for Appealing Dismissal of Formal Complaint

A dismissal of a Formal Complaint may be appealed for the following reasons:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and

- (3) The Director of Title IX Compliance, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that would change the outcome.

D. Format for Appealing Dismissal of Formal Complaint

- (1) Appeals must be in writing and may be no longer than 10 pages (including attachments).
- (2) Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, and at least 12 pt. font.
- (3) Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that a technical malfunction caused the appeal document not to meet these standards.

E. Notice Regarding Appeal of Dismissal

If the dismissal is appealed, NC A&T will:

- (1) Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- (2) Implement appeal procedures equally for the Parties;
- (3) Ensure that the Decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- (4) Ensure that the Decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- (5) Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the Parties of the result of the appeal and the rationale for the result.

F. Decision on Appeal of Dismissal of Formal Complaint

Appeals will be decided by an individual or panel who will be free of conflict of interest and bias, and who will not serve as Director of Title IX Compliance, Title IX Investigator, or hearing Decisionmaker in the same matter.

The appeal outcome will be provided in writing to both Parties and include rationale for the decision. The determination of the appeal Decisionmaker is final.

XIV. Informal Resolution

NC A&T can facilitate an informal resolution between a Complainant and Respondent before beginning an investigation, during an investigation, or at the conclusion of an investigation in appropriate circumstances.

A. Voluntariness of Informal Resolution

- (1) The Parties may voluntarily choose to enter the NC A&T's informal resolution process at any time through an informed written consent. This means that both parties involved in a complaint must agree to resolve the issue through an informal process rather than a formal investigation or hearing. This ensures that all parties' rights are respected, and the process is fair and equitable.
- (2) No Party may be required to participate in informal resolution, and NC A&T may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.
- (3) The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded.

B. When Informal Resolution May Occur

- (1) The informal resolution processes can be initiated after a Formal Complaint has been filed and both Parties have been given notice of the allegations.
- (2) Informal resolution may occur any time prior to determining responsibility and must be agreed upon by all parties involved.

C. Notice Prior to Entry into Informal Resolution Process

Before the initiation of an informal resolution process, the Director of Title IX Compliance must provide to the Parties a written notice that explains:

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) That prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume participation in the formal Grievance Process;
- (4) That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming the Title IX Grievance Process arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- (6) The information that the University will maintain and whether and how the information may be disclosed.

D. Determination to Approve Entry Into Informal Resolution Process

- (1) Even where the Parties agree to submit a matter to informal resolution, the Director of Title IX Compliance or other designated official must approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.
- (2) Factors that the Director of Title IX Compliance or other designated official may weigh in considering the appropriateness of the informal resolution

process include, but are not limited to:

- (a) The gravity of the allegations;
- (b) Whether there is an ongoing threat of harm or safety to the campus;
- (c) Whether the Respondent is a repeat offender;
- (d) Whether the alleged conduct would present a future risk of harm to others;
and
- (e) Whether the Parties are participating in good faith.

This determination is not subject to appeal.

E. Confidentiality During the Informal Resolution Process

- (1) In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Complaint are confidential while the Parties participate in the informal resolution process.
- (2) No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization.
- (3) Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the Formal Grievance Process, provided that this information is disclosed and reviewed by the Parties pursuant to the applicable Title IX Procedures.

F. Informal Resolution Options

- (1) **Administrative Resolution**
 - (a) NC A&T may administratively resolve the Formal Complaint if the Parties mutually determine to enter the informal resolution process, and the Respondent accepts responsibility for the allegations of the Formal Complaint at any point during the informal resolution process.
 - (b) Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a Decisionmaker will convene to determine the Respondent's sanction and other remedies, as appropriate.
 - (c) The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and may be accompanied by their advisor. However, questioning of Parties or witnesses will not be permitted.
 - (d) The Parties will receive simultaneous written notification of the

decision regarding sanctions and remedies, which may be appealed according to the process described below in Section XVI.

(2) **Mediation**

- (a) The purpose of mediation is for the Parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them.
- (b) Either Party can request mediation to seek resolution.
- (c) Mediation will be used only with the consent of both Parties, who will be asked not to contact one another during the process.
- (d) The Title IX office will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case.
- (e) Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.
- (f) The mediation process will typically commence within 7 business days after the Title IX Office receives consent to mediate from both Parties and has made a determination that informal resolution will go forward.
- (g) Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Office.
- (h) During mediation, any potential investigation will halt, and calculations for time frames will be stayed.
- (i) If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed.
- (j) If a resolution cannot be reached, the matter will be referred to the Dean of Students to re-evaluate other options for resolution, including investigation or proceeding forward with the Formal Grievance Process.
- (k) During mediation, a facilitator will guide a discussion between the Parties.
- (l) In circumstances where the Parties do not wish to meet face to face, either Party can request "caucus" mediation, and the facilitator will conduct separate meetings.
- (m) Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings.
- (n) At the conclusion of the mediation, the facilitator will memorialize any agreement reached between the Parties.
- (o) The Title IX Office will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

G. Informal Resolution Agreements

Informal resolution agreements offer an alternative to the formal grievance process for resolving allegations of Sex-Based Discrimination. Potential terms that may be

included in an informal resolution agreement between the Parties include but are not limited to (1) Restrictions on contact; and (2) Restrictions on the Respondent's participation in one or more of NC A&T's education programs or activities or attendance at specific events, including restrictions that NC A&T could have imposed as remedies or disciplinary sanctions if there had been a determination at the conclusion of the Formal Grievance Process that Sex-Based Harassment occurred.

H. Breach of Informal Resolution Agreements

A breach of an informal resolution agreement can have significant implications.

- (1) Any agreement reached through informal resolution must be documented, and both parties must be able to return to the Formal Grievance Process if the informal resolution does not achieve a satisfactory outcome.
- (2) If one party breaches the terms of the informal resolution agreement, the other party may have the right to reinstate the formal complaint process. This allows the continuation of the investigation and potential disciplinary action if necessary.
- (3) The Director of Title IX Compliance will review the circumstances of the alleged breach and determine the appropriate steps to take, which may include resuming the formal Grievance Process.
- (4) Depending on the nature of the breach, disciplinary action may be taken against the party who violated the agreement.

XV. Formal Resolution and Grievance Process

A. Investigation

- (1) NC A&T will provide for adequate, reliable, and impartial investigations of Formal Complaints. The burden is on the University—not on the Parties—to investigate and gather sufficient evidence to determine whether Sex-Based Harassment occurred.
- (2) NC A&T will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and permissible.
- (3) NC A&T will review all evidence gathered through the investigation and determine what evidence is relevant or impermissible regardless of relevance.
- (4) NC A&T will provide each Party with an equal opportunity to access the evidence relevant to the allegations and permissible.

B. Investigation Report

- (1) The Title IX Investigator will create an Investigative Report that fairly summarizes relevant evidence and will provide that Report to the Parties at least 10 calendar days prior to the hearing in an electronic format for each Party's review and written response.
- (2) The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of the relevant evidence.

- (3) Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.
- (4) The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that are otherwise relevant.

C. Live Hearings

(1) Notice of Hearing

- (a) The parties must be notified of any hearing regarding the allegations in the Complaint. Notices of hearings are crucial for ensuring transparency and fairness in the grievance process, allowing all parties to prepare adequately and participate meaningfully.
- (b) Hearing notices must contain at least the names of the parties, a summary of the allegations, the parties' rights, information about informal resolution and the formal grievance process, and the date, time, location, and purpose of any hearing.

(2) General Rules for Live Hearings

- (a) NC A&T will not issue a finding or Disciplinary Sanction arising from an allegation of Sex-Based Harassment without holding a live hearing unless otherwise resolved through an informal resolution process.
- (b) NC A&T will conduct the live hearing with the Parties physically present in separate locations, with technology enabling the Decisionmaker and Parties to simultaneously see and hear the Party or the witness while that person is speaking.
- (c) NC A&T will create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.
- (d) Advisors for both parties are permitted to cross-examine the other party and any witnesses. This cross-examination must be conducted directly, orally, and in real-time.
- (e) The Decisionmaker(s) at the hearing must determine the relevance of each question before it is answered.
- (f) The Decisionmaker must not be the same person as the Director of Title IX Compliance or Investigator and must be impartial and free from conflicts of interest or bias.
- (g) If a Party chooses not to participate in the Process or the hearing, the live hearing may still proceed in the absence of the Party.
- (h) NC A&T may reach a determination of responsibility in their absence, including through any evidence gathered and other witness statements.
- (i) NC A&T will not threaten, coerce, intimidate, or discriminate against any Party to secure the Party's participation.

(3) Participants in the Live Hearing

Live hearings are not public, and the only individuals permitted to participate in the hearings are:

- (a) Complainants
- (b) Respondents
- (c) Decisionmaker
- (d) Advisor
- (e) Witnesses
- (f) Attorneys
- (g) University officials

(4) Standard of Proof in Hearing

The standard of proof in determining whether Sex-Based Harassment occurred is preponderance of the evidence (more likely than not).

(5) Hearing Procedures

- (a) A written copy detailing the standard hearing procedures will accompany the hearing notice.
- (b) The Decisionmaker must also outline the hearing procedures at the hearing and give the parties a chance to ask clarifying questions.

(6) Questioning Parties and Witnesses

- (a) During a live hearing, each Party's advisor can ask relevant and permissible questions and follow-up questions of the Parties and witnesses through the decision-maker.
- (b) No questioning of another Party or witness will be conducted by a Party personally.

(7) Relevant Evidence

Evidence must be relevant (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence).

(8) Impermissible Evidence

Certain types of evidence are impermissible and cannot be used in the Grievance Process. That evidence includes:

- (a) Evidence that is privileged under state or federal law, such as communications between a lawyer and their client, cannot be used unless the privilege is waived.
- (b) Information disclosed to a confidential employee (e.g. counselor or therapist) is also impermissible unless confidentiality is waived.
- (c) Treatment records made or maintained by a physician, psychologist, or other

recognized professional or paraprofessional for treatment purposes are impermissible unless the party waives this privilege.

- (d) Evidence related to the complainant's sexual interests or prior sexual conduct is impermissible, with limited exceptions. Such evidence may be allowed if it is offered to prove that someone other than the Respondent committed the alleged conduct or to prove consent to the alleged Sex-Based Harassment.

(9) The Decisionmaker in Live Hearings

- (a) The Decisionmaker regarding finding responsibility or non-responsibility will consist of a single decisionmaker.
- (b) Parties will have a chance to raise any objections regarding a Decisionmaker's actual or perceived conflicts of interest or bias at or before the live hearing begins.
- (c) The Decisionmaker will not impose discipline on a Respondent unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in conduct prohibited by Title IX.

D. Determination Regarding Responsibility

(1) Communication of Determination

Following an investigation and evaluation of all relevant and permissible evidence, NC A&T will determine each allegation based on the evidence regarding responsibility for whether Sex-Based Discrimination occurred. The determination must be in writing and communicated simultaneously to both parties.

(2) Content of Determination

The written determination must include:

- (a) Identification of the allegations potentially constituting Sex-Based Harassment;
- (b) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination as to responsibility (including notification to the parties and witnesses, site visits, methods used to gather other evidence, and hearings held, if applicable);
- (c) Findings of fact supporting the determination;
- (d) An analysis of the applicability of NC A&T's policy provisions to the factual findings;
- (e) Applicability of governing disciplinary policy;
- (f) A conclusion regarding the application of the institution's code of conduct to the facts; and
- (g) Applicable appeal rights and grounds and procedures for filing an appeal, include the time within which an appeal must be filed.

E. Director of Title IX Compliance Responsibilities Regarding Finding of Responsibility

If there is a determination that Sex-Based Harassment occurred, the Director of Title IX Compliance will, as appropriate:

- (a) Coordinate the provision and implementation of remedies to a Complainant and other people NC A&T identifies as having had equal access to NC A&T's Education Program or Activity limited or denied by Sex-Based Harassment;
- (b) Coordinate the imposition of any disciplinary sanctions on a Respondent, including written notification to the Complainant of any such disciplinary sanctions; and
- (c) Take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within NC A&T's education programs or activities.
- (d) Comply with the Grievance Procedure before the imposition of any disciplinary sanctions against a Respondent; and
- (iii) Not discipline a Party, witness, or others participating in the Grievance Procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether Sex-Based Harassment occurred.

XVI. Sanctions

The University will take appropriate action upon determining or finding that a member of the community violated University Policy 208, Title IX, Sex-Based Harassment and Sex Discrimination.

A. Students

Students are subject to sanctions or protective measures that may include:

- (1) Corrective action
- (2) Disciplinary probation
- (3) Expulsion
- (4) Interim suspension
- (5) Judicial Educator Modules
- (6) Recovery program offered by counseling services
- (7) Reflection paper/letter of apology
- (8) Restitution
- (9) Suspension
- (10) Trespass
- (11) Warning

B. Employees

Faculty and staff will be subject to discipline based on the disciplinary procedure consistent with their classification. Employees may also be subject to criminal or civil liability.

C. Guests and Visitors

Guests and visitors who violate this policy will be subject to appropriate action, including criminal and civil liability.

XVII. Appeals

A. Who May Appeal

Either party (Complainant and Respondent) involved in the Title IX Grievance Process has the right to appeal the determination regarding responsibility and any sanctions imposed.

B. Time for Filing Appeal

Appeals must be in writing and submitted in accordance with the instructions in the notice regarding the finding of whether the Respondent violated University policies. Appeals must be filed following the applicable grievance policy based on classification as to whether the person filing the appeal is a student or employee. Any appeal rights will accompany the written determination.

C. Grounds for Appealing a Determination of Responsibility or Substantiation of Allegations

(1) In addition to any other grounds that may exist by law or another University Policy, grounds for appealing a determination of responsibility or substantiation of the allegations of Sex-Based Harassment are:

- (a) Procedural irregularity that would change the outcome;
- (b) Newly discovered evidence that would change the outcome and that was not reasonably available when the determination of whether Sex-Based Harassment occurred, or dismissal was made; or
- (c) The Director of Title IX Compliance, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents (with an explanation of how the alleged conflict or bias applied to the matter being appealed).

(2) Evidence that was reasonably available at or before the date of the dismissal of the complaint or determination will not be grounds for appeal.

D. Contents of Appeal

Any appeal of a determination must comply with the rules for filing an appeal including:

- (1) Name of the Parties in the case and identification of whether the person filing the appeal is the Complainant or Respondent;
- (2) Date on the notice of the determination;
- (3) Date that the appeal is being filed;
- (4) Clear identification of the specific ground(s) on which the appeal is based;

- (5) Detailed explanation of why the appeal is being filed, including how the grounds for appeal apply to the specific case;
- (6) Relevant supporting permissible evidence or documentation that supports the explanation of the reason for appeal; and
- (7) Explanation of the outcome that the appealing party is seeking (e.g., new hearing or a different determination);

E. Decision on Appeal of Finding Regarding Responsibility or Substantiation

- (a) NC A&T will decide appeals free of conflict of interest and bias. The Decisionmaker in such appeals will be stated in the appeal rights section of the written determination being appealed.
- (b) The Decisionmaker will not be anyone who served as an Investigator, Director of Title IX Compliance, or Hearing Decisionmaker in the same matter or in a matter involving the same parties.
- (c) The appeal decision will be provided in writing to both Parties, and the rationale for the decision will be included. The determination of the Appeal Decision making body is final.