

University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct

Version 1

 Print

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Contact	Office for Equity and Diversity: 252-328-6804; oed@ecu.edu
Related Policies	<p>REG06.40.04 Title IX Compliance and Resolution Regulation (https://policy.ecu.edu/05/25/03)</p> <p>POL 05.25.02, Notice of Nondiscrimination and Affirmative Action Policy (https://policy.ecu.edu/05/25/02)</p> <p>REG11.30.01, Student Conduct Process (https://policy.ecu.edu/11/30/01)</p> <p>Faculty Manual Part XII, Section II (https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part12section2.pdf)</p> <p>Faculty Manual Part IX, Section I (https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part12section1.pdf)</p> <p>REG06.35.02, Mediation and Grievance Procedure for SHRA Employees (https://policy.ecu.edu/06/35/02)</p> <p>REG06.35.03 Resolving Allegations of Discrimination - Interim (https://policy.ecu.edu/06/35/03)</p> <p>REG06.35.01, Review Process and Procedure for EHRA Non-Faculty Employees (https://policy.ecu.edu/06/35/01)</p> <p>Clinical Support Services Employee Handbook, Section 20 (for CSS) (https://humanresources.ecu.edu/wp-content/pv-uploads/sites/21/2019/09/CSS_Employee_Handbook.pdf)</p> <p>Minors on Campus Regulation (https://policy.ecu.edu/01/15/13)</p> <p>Freedom of Expression Regulation (https://policy.ecu.edu/07/30/06)</p>

Additional References	<p>Resource and Reporting Guide for Students Reporting Incidents of Title IX Conduct and Related Misconduct (A-1) (pdf) (https://cdn.ecu.edu/docs/pr-r-uploaded-docs/R&R Guide for Student Complainant.pdf)</p> <p>Resource and Reporting Guide for Students Accused of Incidents of Title IX Conduct and Related Misconduct (A-2) (pdf) (https://cdn.ecu.edu/docs/pr-r-uploaded-docs/Resource%20Guide%20for%20Students%20Accused%20of%20Title%20IX%20Conduct%20or%20Related%20Misconduct.pdf)</p> <p>Resource and Reporting Guide for Employees Reporting Incidents of Title IX Conduct and Related Misconduct (B-1) (pdf) (https://cdn.ecu.edu/docs/pr-r-uploaded-docs/R&R%20Guide%20for%20Employee%20Complainant.pdf)</p> <p>Resource and Reporting Guide for Employees Accused of Incidents of Title IX Conduct and Related Misconduct (B-2) (pdf) (https://cdn.ecu.edu/docs/pr-r-uploaded-docs/Resource%20Guide%20for%20Employee%20Respondents.pdf)</p> <p>Jeanne Clery Act (20 US Code § 1092(f)) (pdf) (https://www.govinfo.gov/content/pkg/FR-2014-10-20/pdf/2014-24284.pdf#page=33)</p> <p>ECU Police Department (https://police.ecu.edu/)</p> <p>Domestic Violence, NC General Statute §50B-1 (pdf) (https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_50B/GS_50B-1.pdf)</p> <p>Stalking, NC General Statute §14-277.3A (pdf) (https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_14/gs_14-277.3a.html)</p> <p>Article 7B - Rape and Other Sex Offenses, §14-27.20 through §14-27.36 (pdf) (https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_14/Article_7B.pdf)</p> <p>ECU CARES (https://ecucares.ecu.edu/)</p> <p>Report Disciplinary Complaint Against Student, OSRR (https://cm.maxient.com/reportingform.php?EastCarolinaUniv)</p> <p>OSHR Employee Grievance Policy, Section 7 (pdf) (https://files.nc.gov/ncoshr/documents/files/Employee_Grievance_Policy-Agency_1.pdf)</p> <p>ECU Title IX Resources (https://titleix.ecu.edu/)</p>
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1. Introduction.

1.1. East Carolina University, a constituent institution of the University of North Carolina, strives to be a national model for student success, public service and regional transformation and is built upon tolerance, civility, and mutual respect. Consistent with these values, the University is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. Pursuant to the Title IX of the Education Amendments of 1972 ("Title IX"), the University prohibits sexual harassment, forms of sexual assault, and interpersonal violence under its Title IX Compliance and Resolution Regulation. However, consistent with 34 C.F.R. 106.45(b)(2)(B), a dismissal under the Title IX Compliance and Resolution Regulation does not preclude action under another provision of University policy. Further, ECU recognizes that Related Misconduct may arise in areas not captured by Title IX jurisdiction and seeks to provide a clear and consistent avenue for review and possible redress of such alleged incidents of misconduct. As a result, this Regulation is a supplement to ECU's Title IX Compliance and Resolution Regulation and is intended to provide consistency and equity in the University's review and response to allegations of similar forms of misconduct.

1.2. Related Misconduct. The University prohibits misconduct in the form of Sexual Assault (Rape, Sodomy, Sexual Assault with and Object, Incest, Fondling, and Statutory Rape) Sexual Exploitation, Dating and Domestic Violence, Stalking, and Sexual Harassment. These forms of Related Misconduct may be unlawful, undermine the character and purpose of the University, and will not be tolerated.

1.3. Purpose. The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community and to support the mission of the University. The University adopts this Regulation with a commitment to: (1) eliminating, preventing, and addressing the effects of Related Misconduct; (2) fostering the University's community of trust, in which Related Misconduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Related Misconduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this Regulation will be evaluated and disciplinary action may be imposed. Employees or Students who violate this Regulation may face disciplinary action up to and including termination or expulsion.

1.4. Application. This Regulation applies to all reports of Related Misconduct occurring on or after the effective date of this Regulation. Where the date of the Related Misconduct precedes the effective date of this Regulation, the definitions of Related Misconduct in existence at the time of the alleged incident(s) will be used. The procedures under this Regulation, however, will be used to investigate and resolve all reports made on or after the effective date of this Regulation, regardless of when the incident(s) occurred.

2. Definitions. Under this Regulation, "Related Misconduct" includes the following specifically defined forms of behavior, not captured under the jurisdiction of the Title IX Compliance and Resolution Regulation: Sexual Assault (Rape, Sodomy, Sexual Assault with an Object, Incest, Fondling,

and Statutory Rape), Sexual Exploitation, Dating and Domestic Violence, Stalking, and Sexual Harassment.

2.1. Complainant is defined as an individual who is alleged to be the victim of conduct that could constitute a policy violation under this Regulation. Any individual may report alleged conduct however the Complainant or the Associate Provost for Equity and Diversity or designee must sign off on any formal complaint. A parent or legal guardian of minors enrolled in the ECU Community School may file a formal complaint on behalf of a child.

2.2. Respondent is defined as an individual who has been reported to be the perpetrator of conduct that could constitute a policy violation under this Regulation.

2.3. Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting system of the Federal Bureau of Investigation including:

2.3.1. Rape is defined as the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

2.3.2. Sodomy is defined as oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

2.3.3. Sexual Assault with an Object is defined as the use of an object to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her youth or because of age or because of mental or physical incapacity.

2.3.4. Incest is defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.3.5. Fondling is defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her youth or because of age or because of his/her temporary or permanent mental incapacity.

2.3.6. Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent. The age of consent in North Carolina is sixteen.

2.4. Consent is:

2.4.1. Informed (knowing),

2.4.2. Voluntary (freely given), and

2.4.3. Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity.

2.4.4. Consent is explicit approval and permission to engage in sexual activity demonstrated by clear actions, words, or writing(s). Consent is informed, freely given, continuing, and mutually understood by all parties involved. If coercion, intimidation, threats, and/or physical force are used to obtain participation or continuing participation, then consent is not present. If the Complainant was mentally or physically incapacitated or impaired so that the Complainant could not understand the fact, nature, and/or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious, or under the age of legal consent, or unable to give consent under current law. If a person becomes incapacitated after consent is given, but before the sexual act is initiated or completed, then consent is no longer valid. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. Whether the Respondent has taken advantage of a position of influence over the Complainant may be a factor in determining whether consent was freely given. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Consent can be withdrawn at any time by either party.

2.4.4.1. Force includes (1) the use of physical violence, (2) threats, (3) intimidation, and/or (4) coercion. Consent cannot be obtained by Force.

2.4.4.1.1. Physical violence means exerting physical control over another person. Examples of physical violence include but are not limited to hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

2.4.4.1.2. Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples of threats include, but are not limited to, verbal statements reflecting intent to harm a person physically, to reveal private information to harm a person's reputation, or to cause a person academic or economic harm.

2.4.4.1.3. Intimidation is an implied threat that causes reasonable fear in another person. Examples of intimidation include, but are not limited to: destroying property, brandishing a weapon, blocking an exit to cause fear. A person's physical size, alone, may not constitute intimidation; however if the person's size is used in a method to instill fear, it may constitute intimidation.

2.4.4.1.4. Coercion includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual activity. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes clear a decision not to participate in a particular form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued unreasonable pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i)

the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

2.4.4.2. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, temporary or permanent physical or mental health condition, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs. However, the consumption of alcohol and/or drugs does not automatically mean that a person is incapacitated. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

2.4.5. University Guidance on Consent and Assessing Incapacitation: A person who wants to engage in a specific sexual activity is responsible for obtaining Consent for that activity. Lack of protest does not constitute Consent. Lack of resistance does not constitute Consent. Silence and/or passivity also do not constitute Consent. Relying solely on non-verbal communication before or during sexual activity may lead to misunderstanding and result in a violation of this Regulation.

It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to discuss with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue sexual activity.

Consent to one form of sexual activity does not, by itself, constitute Consent to another form of sexual activity. For example, one should not presume that Consent to oral-genital contact constitutes Consent to vaginal or anal penetration. Consent to sexual activity on a prior occasion does not, by itself, constitute Consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Consent.

Consent may be withdrawn at any time. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the sexual activity and/or withdraw Consent. However, Consent is automatically withdrawn once an individual becomes incapacitated, if the person seeking to engage in sexual activity knew or should have known that the other person became incapacitated. Once Consent is withdrawn, the sexual activity must cease immediately. In evaluating Consent in cases of alleged incapacitation, the University asks two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? and if not, (2) Should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either of these questions is "YES," Consent was absent and the conduct is a violation of this Regulation.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs creates ambiguity for either party as to whether Consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity.

Being impaired by alcohol or other drugs is no defense to any violation of this Regulation.

2.5. Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Related Misconduct offenses in this Regulation. Examples of sexual exploitation include but are not limited to any of the following:

2.5.1. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give Consent to sexual activity;

2.5.2. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or live streaming of images);

2.5.3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's intimate parts (including, but not limited, to genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);

2.5.4. Recording or photographing private sexual activity and/or a person's intimate parts (including, but not limited, to genitalia, groin, breasts or buttocks) without consent;

2.5.5. Disseminating or posting images of private sexual activity and/or a person's intimate parts (including, but not limited, to genitalia, groin, breasts or buttocks) without consent;

2.5.6. Prostituting another person;

2.5.7. Engaging in sexual abuse or the taking advantage of a minor in order to profit from them or otherwise benefit oneself or any person, or in exchange for anything of value (including monetary and non-monetary benefits); or

2.5.8. Knowingly exposing another person to a sexually transmitted infection or virus without the other's consent.

2.6. Dating and Domestic Violence.

2.6.1. Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the party's statements 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. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

2.6.1.1. A dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

2.6.2. Domestic Violence is defined as a felony or misdemeanor crime of violence committed:

2.6.2.1. By a current or former spouse or intimate partner of the victim;

2.6.2.2. By a person with whom the victim shares a child in common;

2.6.2.3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

2.6.2.4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;

2.6.2.5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

2.7. Stalking is defined as 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.

2.7.1. Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

2.7.2. Reasonable person is defined as a reasonable person under similar circumstances with similar identities to the victim.

2.7.3. Substantial emotional distress is defined as significant mental anguish that may, but does not necessarily require medical or other professional treatment or counseling.

3. To Whom This Regulation Applies

3.1. This Regulation applies to Students who are registered or enrolled for credit- or non-credit-bearing coursework ("Students"); University employees, consisting of all faculty, and staff, ("Employees"); and contractors, vendors, visitors, volunteers, guests or other third parties ("Third Parties") such as Student applicants. This Regulation does not apply to students of the ECU Community School.

3.2. The conduct occurs outside of the enumerated Title IX jurisdiction in the Title IX Compliance and Resolution Regulation.

3.3. Conflicting Provisions: The University's Title IX Compliance and Resolution Regulation supersedes this Regulation to resolve matters that fall within the enumerated jurisdiction of Title IX. This Regulation supersedes any conflicting provisions contained in previous regulations, including but not limited to the "Interim Regulation on Responding to Complaints of Sexual Harassment, Sexual Misconduct and/or Discrimination on the Basis of Sex", the "Sexual Harassment, Discrimination and Conflicts of Interest Policies and Procedures of East Carolina University", "Regulation Addressing Sexual Assault, Domestic and Dating Violence and Stalking as required by the Violence Against Women Act Amendments to the Clery Act – Interim", and the "Regulation on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence." Where Related Misconduct violates this Regulation and also violates another Regulation, the University's response will be governed by the procedures referenced in this Regulation. Questions about which Regulation applies in a specific instance should be directed to the University's Associate Provost for Equity and Diversity or designee at (252) 328-6804. Note that the University's Office for Equity and Diversity administers a separate regulation that addresses other forms of discrimination and harassment: "Resolving Allegations of Discrimination."

4. Applicable Procedures

4.1. The specific procedures for reporting, investigating, and resolving concerns related to this Regulation are based upon the nature of the Respondent's relationship to the University (Student, Employee, or Third Party). Each set of procedures referenced below is guided by the same principles of fairness and respect for Complainants and Respondents.

4.2. Disciplinary Action. A Student or Employee determined by the University to have committed an act of Related Misconduct is subject to disciplinary action, up to and including expulsion and separation from the University. Third Parties who commit Related Misconduct under this Regulation may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn.

4.3. Procedures. The procedures referenced below provide for prompt and equitable response to reports of Related Misconduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence, to view the information that will be used in determining whether a Regulation violation has occurred, and an opportunity to pose questions to be answered by parties and other witnesses. The University applies the Preponderance of the Evidence standard when determining whether this Regulation has been violated. Meeting the preponderance of evidence standard constitutes a conclusion it is more likely than not that the alleged conduct occurred. This standard will be used to evaluate the evidence for purposes of making findings and drawing conclusions for an investigation conducted under this Regulation.

4.3.1. Where the Respondent is a Student. The procedures for responding to reports of Related Misconduct committed by Students are detailed in Appendix A: Investigating and Resolving Reports Under the Title IX Compliance and Resolution Regulation and the University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/Appendix A revised 9.15.2021.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Appendix_A_revised_9.15.2021.pdf)) ([//cdn.ecu.edu/docs/prr-uploaded-docs/FINAL_DRAFT_AppendixAtest.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/FINAL_DRAFT_AppendixAtest.pdf)).

4.3.2. Where the Respondent is an Employee. The procedures for responding to reports of Related Misconduct committed by Employees, including faculty, are detailed in Appendix B: Investigating and Resolving Reports Under the Title IX Compliance and Resolution Regulation and the University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/Appendix B revised 9.15.2021.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Appendix_B_revised_9.15.2021.pdf)).

4.3.3. Where the Respondent is Both a Student and an Employee.

4.3.3.1. If there is a question as to the predominant role of the Respondent, the University's Associate Provost for Equity or Diversity or designee will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the Related Misconduct). Further, where a Respondent is both a Student and an Employee, the Respondent may be subject to any of the sanctions applicable to Students or Employees.

4.3.4. Where the Respondent is a Third Party. The University's ability to take corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the University. The Associate Provost for Equity and Diversity or designee will determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process consistent with federal law, and this Regulation. Reports of Related Misconduct by student organizations will be handled according to the procedures outlined in Appendix A and when relevant, the Student Code of Conduct.

5. Reporting and Formal Complaints.

5.1. There are multiple channels for reporting Related Misconduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and University action. The University will support Complainants in understanding, assessing, and pursuing these options. There are certain persons on campus who must report a crime, but those reports need not identify the complainant. For instance, campus security authorities must complete an anonymous crime reporting form, which does not require the disclosure of any personally identifying information about a complaining party. Rather, it is collected so that the University can stay informed about trends, areas of particular concern and target educational needs.

5.2. Law Enforcement. Complainants have the right to notify law enforcement. In keeping with its commitment to taking all appropriate steps to eliminate, prevent, and remedy all Related Misconduct, the University urges Complainants to report Related Misconduct immediately to local law enforcement by contacting:

- 911 (for emergencies)
- Greenville Police Department (252) 329-4315 (for non-emergencies)
- Pitt County Sheriff's Office (252) 902-2800 (for non-emergencies)
- ECU Police Department (252) 328-6787 (for non-emergencies)

5.2.1. Police have unique legal authority that the University lacks, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders. The University will assist Complainants in notifying law enforcement if they choose to do so.

5.3. A Complainant or the Associate Provost for Equity and Diversity or designee may file a formal complaint with the University alleging Related Misconduct. A formal complaint is defined as a document filed by a Complainant or signed by the Associate Provost for Equity and Diversity or designee Coordinator alleging a violation of Related Misconduct against a Respondent and requesting the University investigate. A Complainant can file a police report at any time, including during the duration of an investigation under this regulation. The University will assist in connecting the Complainant with the law enforcement agency of the applicable jurisdiction. The standard of evidence for conviction in criminal cases ("beyond a reasonable doubt") is a higher standard than the University will use in a formal investigation ("preponderance of the evidence"). A University investigation will continue to go forward during a criminal investigation. Reporting to the police and/or the University does not end the investigatory responsibility for the University.

5.4. The University also urges anyone who becomes aware of an incident of Related Misconduct to report the incident immediately to the University.

5.4.1. There is no time limit for reporting Related Misconduct to the University under this Regulation; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the University. If the Respondent is no longer a Student or an Employee, the University will provide reasonably appropriate supportive measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate Related Misconduct, prevent its recurrence, and remedy its effects.

5.5. The Good Samaritan. The University's "Good Samaritan" regulation is applicable to a student(s) who summon(s) medical attention for a person (including themselves) in need of medical assessment and/or treatment for a problem to which the student may have contributed or caused by participating in the use and abuse of alcohol and/or other drugs. While the University does not condone violations of the Student Code of Conduct or state and federal laws, the University may take into consideration potentially life-saving actions of students who act as "Good Samaritans" by reducing the disciplinary actions associated with alcohol and/or other drug use violations, including limited immunity to campus student conduct charges. More information about the Good Samaritan Regulation (<https://policy.ecu.edu/11/30/02>) can be found on the University's Policy Manual website.

6. Resources.

6.1. The University offers a wide range of resources for all Students and Employees to provide support and guidance in response to any incident of Related Misconduct. For comprehensive information on accessing University and community resources, including emergency and ongoing assistance; health, mental health, and advocacy services; options for reporting Related Misconduct to the University and/or law enforcement; and available support with academics, housing, and employment:

6.1.1. Students should refer to the Student Resource Guides

6.1.1.1. Resource and Reporting Guide for Students Reporting Incidents of Title IX Conduct and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/R&R Guide for Student Complainant.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/R&R%20Guide%20for%20Student%20Complainant.pdf))

6.1.1.2. Resource and Reporting Guide for Students Accused of Incidents Title IX Conduct and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/Resource Guide for Students Accused of Title IX Conduct or Related Misconduct.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Resource%20Guide%20for%20Students%20Accused%20of%20Title%20IX%20Conduct%20or%20Related%20Misconduct.pdf))

6.1.2. Employees should refer to the Employee Resource Guides

6.1.2.1. Resource and Reporting Guide for Employees Reporting Incidents of Title IX Conduct and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/R&R Guide for Employee Complainant.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/R&R%20Guide%20for%20Employee%20Complainant.pdf))

6.1.2.2. Resource and Reporting Guide for Employees Accused of Incidents Title IX Conduct and Related Misconduct ([//cdn.ecu.edu/docs/prr-uploaded-docs/Resource Guide for Employee Respondents.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Resource%20Guide%20for%20Employee%20Respondents.pdf))

6.1.3. Third Parties should contact the Associate Provost for Equity and Diversity to discuss available University and/or community resources and reasonably available assistance.

7. Supportive Measures.

7.1. The University offers a wide range of resources for Students and Employees, whether as Complainants or Respondents, to provide support and guidance throughout the initiation, investigation, and resolution of a report of Related Misconduct. The University will offer reasonable supportive measures if requested and reasonably available, regardless of whether or not the event is reported to ECU Police or other law enforcement agencies and regardless of whether a complaining party desires to participate in University disciplinary proceedings or seek criminal charges. Supportive measures are defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures, which may be temporary or permanent, may include but are not limited to: no-contact directives, campus living modifications, transportation and parking modifications, academic modifications and support, work schedule modifications, investigatory placement, administrative suspension, and suspension from employment (with or without pay).

7.2. The University will maintain the privacy of any supportive measures provided under this Regulation to the extent practicable and will promptly address any violation of such measures. The Associate Provost for Equity or Diversity or designee has the discretion and responsibility to impose and/or modify any supportive measure based on all available information. Staff within the Office for Equity and Diversity is available to meet with a Complainant or Respondent to address any concerns about the supportive measures.

7.3. The University will provide reasonable supportive measures to Third Parties as appropriate and available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.

8. Privacy and Confidentiality.

8.1. The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this Regulation to the extent allowed by law. The University also is committed to providing assistance to help Students, Employees and Third Parties make informed choices. With respect to any report under this Regulation, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate Related Misconduct, prevent its recurrence, and remedy its effects. Privacy and confidentiality have distinct meanings under this Regulation.

8.2. Privacy. Privacy means that personally identifiable information related to a report of Related Misconduct will be shared with a limited circle of University Employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the University's response to reports of Related Misconduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

8.2.1. The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the University's FERPA policy. The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA. Access to an Employee's personnel records may be restricted in accordance with the North Carolina Human Resources Act, N.C. Gen. Stat. section 126-22 et seq.

and the North Carolina Public Records Act, N.C. Gen. Stat. section 132-1 et seq. and the University's record retention policy.

8.3. Confidentiality: Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under the law. The University has designated individuals who have the ability to have privileged communications as "Confidential Employees", as defined below. These resources adhere to strict standards of confidentiality, without sharing what an individual has told them other than in limited circumstances. These resources can provide information and other wellness services. When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) there is a legally mandated reporting requirement, regarding information concerning conduct involving suspected abuse, neglect or dependency of a juvenile (one who has not reached their eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States).

8.3.1. A "Confidential Employee" is (1) any Employee who is a licensed medical, clinical or mental-health professional when acting in that professional role in the provision of services to a patient ("health care providers"); and (2) any Employee providing administrative, operational and/or related support for such health care providers in their performance of such services.

9. Violations of Law.

9.1. Behavior that violates this Regulation may also constitute a crime. For example, North Carolina criminalizes and punishes some forms of Sexual Assault, Dating and Domestic Violence, Sexual Exploitation, Stalking, and Assault. The criminal statutes that may apply in cases Sexual Assault may be found in N.C. General Statutes sections 14-27.20 through 14-27.36. The criminal statutes that relate to Stalking may be found in N.C. General Statutes sections 14-277.3A. The criminal statutes that relate to Domestic Violence may be found in N.C. General Statutes section 50B. This compilation of criminal statutes is not exhaustive, but is offered to notify the University community that, some forms of Related Misconduct may also constitute crimes under North Carolina law, which may subject a person to criminal prosecution and punishment in addition to any sanctions under this Regulation.

10. Obligation to Provide Truthful Information.

10.1. All University community members are expected to provide truthful information in any report or proceeding under this Regulation. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Related Misconduct is prohibited and subject to disciplinary sanctions under the University's Student Code of Conduct and disciplinary action under the appropriate Employee disciplinary policy. This provision does not apply to reports made or information provided in good faith, even when the alleged facts are later not substantiated.

11. Records Retention.

11.1. This Regulation is maintained by the Office for Equity and Diversity. The University will review and update this Regulation annually, as appropriate. The University will evaluate, among other things, any changes in legal requirements, existing University resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed). The Associate Provost for Equity and Diversity or designee shall certify to the Chancellor.

Appendix A - Procedures for Reports Against Students ([//cdn.ecu.edu/docs/prr-uploaded-docs/Appendix A revised 9.15.2021.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Appendix A revised 9.15.2021.pdf)) ([//cdn.ecu.edu/docs/prr-uploaded-docs/2021_08_18_FINAL_AppendixA_Redline_Updates.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/2021_08_18_FINAL_AppendixA_Redline_Updates.pdf)); Investigating and Resolving Reports Under the Title IX Compliance and Resolution Regulation and the University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct

Appendix B - Procedures for Reports Against Employees ([//cdn.ecu.edu/docs/prr-uploaded-docs/Appendix B revised 9.15.2021.pdf](https://cdn.ecu.edu/docs/prr-uploaded-docs/Appendix B revised 9.15.2021.pdf)); Investigating and Resolving Reports Under the Title IX Compliance and Resolution Regulation and the University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct

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