

Prohibited Discrimination, Harassment, and Related Misconduct Regulation 121

Regulation 121

Approved: March 1, 2021

UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS Prohibited Discrimination, Harassment, and Related Misconduct Regulation Regulation 121

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I. Introduction

University of North Carolina School of the Arts (“UNCSA”) is committed to encouraging and sustaining a learning and work community free from discrimination, harassment, and related misconduct. UNCSA is committed to an inclusive community that respects and values all of its members, including (but not limited to) high school students, undergraduate students, graduate students, program participants, faculty, staff, and third parties.

The Division of Institutional Integrity (DII) is responsible for the Prohibited Discrimination, Harassment, Title IX, and Related Misconduct Regulation (“Regulation”). The Division of Institutional Integrity will work in conjunction with Human Resources and the Office of Student Conduct to ensure the campus is in compliance with the Regulation. This Regulation does not include sex and gender-based harassment that falls under the Interim Title IX Regulation.

The Chief Compliance Officer and Title IX Coordinator is UNCSA’s designated Coordinator for Title IX of the Education Amendments of 1972. They may be contacted at the Title IX Office, 2nd floor of the Library Room 209, (336) 932-3917.

The Director of Learning Resources is the designated Coordinator for Section 504 of the Rehabilitation Act of 1973 and the Age

Discrimination Act of 1975. The Director can be contacted at the Teaching and Learning Center, [336-726-6963](tel:336-726-6963), learningresources@unca.edu.

II. Regulation

This Regulation prohibits discrimination and harassment on the basis of race, color, national origin, sex, gender, gender identity, gender expression, sexual orientation, pregnancy, religion, genetic information, age, disability, or veteran status (collectively, “protected status” or “protected characteristics”); this includes discrimination and harassment based on the perception of an individual’s protected status, even if that perception is incorrect. It also prohibits misconduct related to protected status discrimination and harassment, specifically, relationship violence and stalking. The Regulation applies to the administration of employment and educational policies, practices, programs, and activities.

The Regulation also prohibits retaliation against an individual: (1) who files a complaint or report of discrimination, harassment, or related misconduct; (2) against whom a complaint is filed; (3) who participates in the reporting, investigation, or adjudication of possible violations of this Regulation; or (4) who engages in good faith opposition to what the individual reasonably believes to be discrimination, harassment, or related misconduct under this Regulation.

The Regulation should be read in a way consistent with all applicable federal and state laws addressing discrimination, harassment, and related misconduct.

III. Jurisdiction/Scope

The Regulation and associated procedures protect all members of the UNCOSA community (including UNCOSA entities and subsidiary organizations) from discrimination, harassment, and related misconduct while such members are on UNCOSA property or participating in UNCOSA related activity. It also applies to conduct that occurs off UNCOSA property and not in the context of a UNCOSA related activity that has continuing adverse effects on a UNCOSA related activity.

Members of the UNCOSA community protected by this Regulation include, but are not limited to, full and part time students and employees, including faculty members, staff, high school students, undergraduate students, graduate students, student employees, and temporary and contract employees. The Regulation also protects third parties, including applicants for admission and employment, visitors, employees of UNCOSA contractors, and program participants.

Some types of harassment and related misconduct may be criminal in nature and can also be reported to the [UNCOSA Police](#)

Department, 911 (emergencies), (336) 770-3362 (on-campus emergencies) or (336) 770-3321 (non-emergencies).

The Regulation and associated procedures prohibit discrimination, harassment, and related misconduct committed by members of the UNCSA community and third parties. The complaint procedures may differ depending on whether the accused individual is a student in high school student, an undergraduate or graduate student, or are faculty or staff.

If you are a **UNCSA employee or faculty member** and have a concern or question regarding this Regulation or its implementing procedures, you may contact DII at 336-932-3917, or the Office of Human Resources at 336-770-1462.

If you are a **UNCSA student** and have a concern or question regarding this Regulation or the procedures for filing a complaint, you can contact either DII at 336-932-3917 or the Office of Student Conduct at 336-631-1215.

If you are a **UNCSA applicant for employment, applicant for admissions, visitor, or patient**, there are resources to assist you with your concern or question. You may contact the office or department with whom you directly interacted or you may contact DII at 336-932-3917. If you are an applicant for employment, you may also contact the Office of Human Resources.

Anyone can consult directly with the Division of Institutional Integrity for guidance.

IV. Definitions

Allegation: a statement by a complainant alleging an act of discrimination, harassment, or related misconduct.

Complaint: formal notification, either orally or in writing, of the belief that discrimination, harassment, or related misconduct has occurred.

Complainant: the person filing a complaint alleging that they had been subject to discrimination, harassment, or related misconduct.

Consent: An affirmative decision to engage in mutually acceptable sexual activity freely given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone.

- A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity.

- An individual is unable to freely give consent when the individual is incapacitated (arising, for example, from the use of alcohol or other drugs or when the individual is passed out, asleep, unconscious, or mentally or physically impaired). An individual is unable to freely give consent when the individual is coerced into sexual activity, such as, for example, through the use of physical force, threat of physical or emotional harm, undue pressure, isolation, or confinement.
- The perspective of a reasonable person will be the basis for determining whether a respondent knew, or reasonably should have known, whether a complainant was able to freely give consent and whether consent was given. Additionally, being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual misconduct.
- Consent cannot be obtained by coercion or force. Coercion or force 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 Contact. Examples of coercion or force include causing the deliberate incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the Sexual Contact; threatening to harm oneself if the other party does not engage in Sexual Contact;

or threatening to disclose an individual's Sexual Orientation, Gender Identity, Gender Expression, or other personal sensitive information if the other party does not engage in the Sexual Contact.

Discrimination: when an individual or group is subjected to an adverse action based upon a protected status or characteristic. Discrimination can occur under this Regulation in either an employment or an educational context. Discrimination also includes failing to provide reasonable accommodations to a qualified person with a disability or to reasonably accommodate an employee's religious beliefs or practices, as required by state and federal law.

Harassment: a type of discrimination that occurs when unwelcome verbal, visual, physical, electronic, or other conduct based on an individual's or group's protected status or characteristic is sufficiently serious to significantly interfere with that individual's or group's ability to participate in or benefit from UNCSEA programs or activities or their terms and conditions of employment. This can include conduct that significantly interferes with the individual's or group's:

- educational environment (e.g., admission, academic standing, grades, assignment);

- work environment (e.g., hiring, advancement, assignment);
- participation in a University program or activity (e.g., campus housing); or receipt of legitimately-requested services (e.g., disability or religious accommodations).

Prohibited harassment includes:

- **Hostile Environment Harassment:** unwelcome conduct based on protected status that is so severe, persistent, and/or pervasive that it alters the conditions of education, employment, or participation in a program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, would not create a hostile environment. Harassment is distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities.
- **Quid Pro Quo Harassment:** conditioning an individual's education, employment, or participation in a program or activity on submission to unwelcome conduct on the basis of protected status or characteristic.

- **Sexual or Gender-Based Harassment:** unwelcome conduct based on sex or gender that creates a hostile environment or involves submission to or rejection of such conduct as a condition of employment, education, or participation in a program or activity. This includes sexual violence and sexual exploitation (defined below).
- **Sexual Assault:** a particularly severe form of harassment defined as any physical act of a sexual nature based on sex and perpetrated against an individual without consent or when an individual is unable to freely give consent. Physical acts of a sexual nature include, but are not limited to, non-consensual touching or attempted touching of a person's breasts, buttocks, inner thighs, groin, or genitalia, either directly or indirectly; and/or sexual penetration (however slight) of another person's oral, anal, or genital opening with any body part or object.
- **Sexual Contact:** intentional touching or penetration of another person's clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner. This also includes causing another person to touch their own or another's body in the manner described above.
- **Sexual Exploitation:** taking sexual advantage of another without consent for one's benefit or the benefit of another party; e.g., by threatening to disclose an individual's sexual orientation, gender identity, or gender expression unless the individual submits to sexual demands; observing sexual

activity others without their knowledge or consent; or streaming images of sexual activity without the knowledge or consent of those involved.

Protected Status/Characteristics:

- **Age:** the number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from discrimination and harassment based on age. There is no age threshold for protection from discrimination for students or other participants in educational programs or activities.
- **Color:** an individual's skin pigmentation, complexion, shade, or tone.
- **Disability:** a physical or mental impairment that substantially limits one or more major life activities. Individuals are protected from discrimination if they have such an impairment; have a record of such impairment; or are regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic, athletic, or extra- curricular program, with or without reasonable accommodation.

- **Gender:** A socially constructed concept that designates people (based on their appearance, perceived sex, learned behaviors, traits, and actions) as masculine or feminine. A person's assigned sex does not always align with their gender (see transgender), and many people display traits associated with more than one gender. Gender is different from sexuality.
- **Gender Expression:** The way that someone expresses their gender, either consciously or unconsciously. This encompasses everything that communicates gender to others: clothing, hairstyles, body language, mannerisms, how we speak, how we play, and our social interactions and roles. Most people have some blend of masculine and feminine qualities that comprise their gender expression, and this expression can also vary depending on the social context. There is not always a direct translation between gender identity and gender expression.
- **Gender Identity:** Language a person claims based on their internal understanding of their gender. Also, one's innate and personal experience of gender. This may or may not align with one's gender expression or gender attribution. gender.
- **Transgender/Trans:** A term describing when one's gender identity does not align with their assigned sex. Trans people challenge society's view of gender as fixed, unmoving, dichotomous, and inextricably linked to one's biological sex.

The sexual orientation of transgender people varies just as it does among cisgender people.

- **Non-binary:** A term describing individuals who do not identify their gender within the margins of male and female binary.
- **Pangender:** A person whose gender identity is comprised of all or many genders.
- **Cisgender:** A gender identity that aligns with the sex one was assigned at birth.
- **Pronouns:** Linguistic tools we use to refer to proper nouns. In the context of gender, pronouns are used to refer people, and are often gendered. Some examples of pronouns include: they/them/theirs, she/her/hers, he/him/his, and ze/hir/hirs. Most pronouns are gendered and binary, although there are personal pronouns in many languages that are not gender specific. Using incorrect pronouns or assuming them based on appearance, is a way to misgender someone. Intentionally misgendering someone is a form of sexual harassment.
- **Gender-neutral/Gender-free Pronouns:** Pronouns which do not associate a gender with the person being discussed. The dichotomy of “he and she” in English does not leave room for other gender identities, a source of frustration for the

transgender, non-binary, and gender non-conforming community. People who are limited by languages which do not include gender-neutral pronouns have worked to create them. Some English examples are “they” or “hir” for “him/her” and “they” or “ze” for “he/she.” The use of “they/them” pronouns as singular pronouns is accepted by experts as grammatically correct.

- **Genetic Information:** information about (i) an individual’s genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.
- **National Origin:** an individual’s actual or perceived country or ethnicity of origin.
- **Race:** an individual’s actual or perceived racial or ethnic ancestry or physical characteristics associated with a person’s race, such as a person’s color, hair, facial features, height, and weight.

- **Religion:** all aspects of religious observance and practice, as well as belief.
- **Sex (Assigned at Birth):** a designation at birth (male, female, intersex) generally based on external appearance of sex organs; includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth.
- **Sexual Orientation:** one's sexual, romantic, physical, and/or emotional attraction (or lack of attraction) to others.
- **Veteran Status:** covered veterans include disabled veterans, special disabled veterans, veterans of the Vietnam era, and other protected veterans as defined by federal and state.
- **Related Misconduct:** relationship violence, retaliation, and stalking as defined in this Regulation.
- **Relationship Violence:** any act of violence or pattern of abusive behavior in an intimate relationship that is used by one partner to gain or maintain power and control over another partner. Relationship violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. It includes:
 - **Domestic violence:** any act of violence or pattern of abusive behavior committed against a current or former

spouse/cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

- **Dating violence:** any action of violence or pattern of abusive behavior committed by an individual who has been in a social relationship of a romantic or intimate nature with the complainant. Whether there is or was such a relationship will be determined by its length, type, and frequency of interaction.
- **Retaliation:** an adverse action or other form of negative treatment carried out in response to a good-faith reporting of or opposition to discrimination, harassment, or related misconduct; an individual's or group's participation in UNCSA's complaint process or the follow-up to a complaint; or other form of good faith opposition to what an individual reasonably believes to be discrimination, harassment, or related misconduct under this Regulation. Individuals are also protected from retaliation for making good faith requests for accommodations on the basis of religion or disability. To be a Regulation violation, the challenged actions or treatment must be sufficiently serious to discourage or chill a reasonable person from further reporting, participation, or opposition.
- **Respondent:** the person or office, program, department, or group against whom the allegation or complaint is made; i.e.,

the individual(s), organizational unit(s), or group(s) accused of discrimination, harassment, or related misconduct.

- **Responsible Employee:** any employee who has been given the duty of reporting incidents of discrimination, harassment, or other misconduct to the DII or Office of Human Resources.
- **Stalking:** a course of conduct (including cyberstalking) based on a protected characteristic and directed at a specific person that would cause a reasonable person to fear for their safety or the safety of another, or to suffer substantial emotional distress.

V. Resources and Reporting Options

A. Emergency Law Enforcement, Medical, and Crisis Response Resources

As a first priority, UNCSA encourages all individuals to report discrimination, harassment, or related misconduct that may involve criminal conduct to the [UNCSA Police Department](#) or, for incidents taking place off-campus, to the appropriate local law enforcement agency. This could include sexual violence, relationship violence, stalking, and conduct that could be a hate crime. In cases of sexual misconduct involving a minor, members of the UNCSA community are required to report the

situation to UNCSA Police Department. UNCSA Police Department can be contacted at 336-770-3362 in emergency situations or 336-770-3321 in non-emergency situations.

For incidents of sexual violence, sexual exploitation, relationship violence, and stalking, UNCSA also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are also available on campus; e.g., at Health Services (336-770-3288), UNC Nurse Connects (formerly Health Link; 984-364-4730), or at Counseling Services (336-770-3288). More resources are available off campus.

B. Resources and Reporting Options

UNCSA encourages all individuals to seek the support of on and off campus resources, regardless of when or where the incident occurred. These resources can provide guidance on reporting options and information about available resources. In general, UNCSA provides two ways to raise concerns about possible discrimination, harassment, and related misconduct, Confidential Resources and Reporting Options.

1. Confidential Resources

The following UNCSA resources can provide counseling, information, and support in a confidential setting. These confidential resources will not share information about a report of discrimination, harassment, or related misconduct without the individual's express written permission unless there is a continuing threat of serious harm to the complainant party or to others, or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

Adapted from the [Office on Violence Against Women, U.S. Department of Justice](#) ↗.

Resources for Students

Student Health Services: [336-770-3288](#)

UNC Nurse Connect (after-hours nurse triage service, formerly HealthLink): [984-364-4730](#) ↗

Counseling Services: [336-770-3288](#)

Resources for Employees

[Employee Assistance Program](#)

1-877-EAP-SOLV
(327-7658)

In addition, reports can be made anonymously to the [UNCSCA Police Department at 336-770-1414.](#)

These off-campus resources can also provide counseling, information, and support in a confidential setting to students and employees:

- Wake Forest Baptist Medical Center Emergency Department: [336-713-9000](#)
- Forsyth Medical Center Emergency Department: [336-718-2001](#)
- Sexual Assault Response Program: [336-722-4457](#) (24-hour rape crises service sponsored by Family Services)
- Winston-Salem Police or Forsyth County Sheriff's Office: 911
- [National Sexual Assault Crisis Line](#) [1-800-656-4673](#)
- [Family Services](#) [336-722-8173](#)
- Counseling and Support Groups (Family Services of Forsyth County): [366-723-4357](#)
- Protective Orders/Legal Advocacy

7th Floor, Forsyth County Hall of Justice

2. Reporting Options

Individuals may file a report directly to someone in DII, Human Resources, or Student Conduct. Individuals may also file a report online at <https://uncsa.protocall.info/incident-report> .

Responsible employees must report incidents of sexual harassment to the DII or Office of Human Resources. Responsible employees should disclose to complainants that they have a duty to report any incidents of sexual harassment to the DII or Office of Human Resources, but counseling resources are available that may, under certain circumstances, be able to keep complaints confidential, if the complainant so chooses.

VI. Timeliness

In order to maintain and support a community that is respectful and free from discrimination, harassment, and related misconduct and to maximize UNCOSA's ability to respond promptly and effectively, we urge individuals to come forward with reports of concerns or with complaints as soon as possible. Complainants

and other reporting individuals are encouraged to seek assistance and utilize available resources if they feel they have been subjected to or receive reports of such conduct. The sooner a complaint is filed, the more effectively it can be investigated, e.g., while witnesses are still available, memories are fresh, and documentation may still be available. With that said, there is no time limit for reporting alleged discrimination, harassment, or related misconduct.

In some cases, e.g., where the individual accused of misconduct is no longer affiliated with UNCSEA, we may not be able to take disciplinary action. However, UNCSEA will strive to provide other fair and reasonable measures to support the reporting party and minimize any future misconduct.

VII. Prohibited Conduct

A. Discrimination and Harassment

This Regulation prohibits all forms of **discrimination** and **harassment** based on an individual's protected status or protected characteristic, as defined in the Regulation.

Discrimination also includes failing to provide reasonable accommodations related to disability or religion, consistent with state and federal law.

This Regulation shall be applied in way that is consistent with the University's principles of academic freedom. UNCSEA is committed to the free and vigorous discussion of ideas and issues, which the University believes will be protected by this Regulation. Academic freedom and the related freedom of expression include, but are not limited to, the civil expressions of ideas – however controversial – in the classroom, residence halls, and other teaching and student living environments.

B. Related Misconduct

This Regulation also prohibits **relationship violence, stalking** based upon any protected status, and **retaliation**. All individuals who believe they have been subjected to discrimination, harassment, or related misconduct prohibited by this Regulation are encouraged and have the right to seek support, utilize available resources, and come forward with their concerns or complaints. Fear of retaliation should not be an obstacle to reporting. Any act of retaliation will be a violation of this Regulation when it is sufficiently serious (e.g., severe, persistent, and/or pervasive) to discourage a reasonable person from complaining about or opposing discrimination, harassment, or related misconduct.

This Regulation prohibits retaliation:

Against the Complainant: It is a violation of this Regulation to retaliate against a complainant or other individual or group for making a good faith report of discrimination, harassment, or related misconduct or for opposing what they reasonably believe to be prohibited discrimination, harassment, or related misconduct in some other way. If warranted, the appropriate senior administrator may monitor performance review, promotion, reappointment, grading, or other evaluation—or, to the extent possible, may reassign the supervisory relationship or other role of authority—to ensure that retaliation does not occur.

Against the Respondent: A claim of discrimination, harassment, or related misconduct is not proof of prohibited conduct. A claim shall not be taken into account during an individual respondent's performance review, promotion, reappointment, or other evaluation unless a final determination has been made that the respondent has violated the Regulation. If necessary and appropriate, such decisions shall be deferred until the claim is resolved.

Against a Witness or Participant in the Investigation: It is also a violation of this Regulation to retaliate against an individual or group providing information related to a complaint.

A claim of retaliation by a complainant, respondent, or witness will be resolved through the procedures for complaints of

discrimination, harassment, or related misconduct.

VIII. Confidentiality

UNCSA recognizes that confidentiality is important. Breaches of confidentiality compromise UNCSA's ability to investigate and resolve claims of discrimination, harassment, and related misconduct. UNCSA will attempt to protect the confidentiality of the complaint process to the extent reasonably possible.

Investigators, advisors, mediators, members of hearing panels, and any others participating in the process on behalf of UNCSA shall keep the information obtained through the process confidential. All other participants in the process (including the complainant, respondent, non-UNCSA advisors, and witnesses) are encouraged to respect the confidentiality of the proceedings and circumstances giving rise to the dispute and to discuss the matter only with those persons who have a genuine need to know.

While UNCSA is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include:

- When UNCSA is required by law to disclose information (such as in response to a subpoena or court order)

- When disclosure of information is determined by DII and/or the department to be necessary for conducting an effective investigation of the claim
- When confidentiality concerns are outweighed by UNCSEA's interest in protecting the safety or rights of others.

Appendix A

Complaints Involving Students

The Regulation protects **high school, undergraduate, and graduate students** from discrimination, harassment, and related misconduct. However, the complaint procedures may differ depending on the status of the respondent. Complaints against faculty, staff, and most other members of the UNCSEA community will be handled under the procedures implementing the Regulation. Complaints against students will be handled as follows:

- Cases alleging sexual misconduct carried out by a **high school, undergraduate, or graduate student** are handled by the Office of Student Conduct under the investigation, hearing, and appellate procedures set forth in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook.

- Cases alleging discrimination, harassment, and related misconduct other than sexual misconduct carried out by **a high school, undergraduate, or graduate student** are handled by the Office of Student Conduct under the investigation, hearing, and appellate procedures set forth in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook.

Questions about Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook should be directed to the Office of Student Conduct.

If you are a **UNCSA student** and feel you have experienced discrimination, harassment, or related misconduct by **faculty, staff, or other UNCSA community member**, the Regulation on Prohibited Discrimination, Harassment, and Related Misconduct would apply and you should contact the Division of Institutional Integrity at (336) 932-3917.

Complaint Handling Procedures

I. Introduction

Students (including high school, undergraduate, and graduate students), faculty, staff, and all others covered by the Regulation have the right to raise good faith concerns or file complaints of

discrimination, harassment, and/or related misconduct regarding the actions of faculty, staff, and certain others as explained in the Regulation. As explained in Appendix A to the Regulation:

- Complaints of sexual misconduct committed by high school, undergraduate, and graduate students are adjudicated by the Office of Student Conduct under the procedures in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook.
- Complaints of discrimination, harassment, or related misconduct other than sexual misconduct committed by high school and undergraduate students are adjudicated by the Office of Student Conduct under the procedures in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook.
- Complaints of discrimination, harassment, or related misconduct other than sexual misconduct committed by graduate students are adjudicated by the accused student's college or school under the procedures set out below or the Office of Student Conduct under the procedures in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook.
- In some cases, complaints may not fall within the scope of the Regulation or may involve concerns not connected to a protected status or characteristic. In those cases, the situation

may be referred to another UNCSCA office, department, unit, or resource.

The procedures set out below are intended to facilitate and provide a mechanism to address concerns, to resolve complaints in a manner that is prompt, equitable, and consistent with the values of an impartial and reliable investigation, and to provide for appropriate follow-up. These procedures are implemented and administered by the Division of Institutional Integrity (DII).

Throughout this document, **“complainant”** refers to the individual who has come forward with a concern or complaint alleging that they had been subject to discrimination, harassment, or related misconduct and **“respondent”** refers to the individual, department, or unit against whom it is alleged has perpetrated the conduct.

II. Reporting and Responding

Complaints of discrimination, harassment, or related misconduct should be submitted to the appropriate individual or office as soon as reasonably possible, preferably within one year after the most recent alleged misconduct. As explained in the Regulation, the sooner a complaint is filed, the more effectively it can be investigated. In addition, the longer an individual waits to file a complaint, the more difficult it may be for UNCSCA to respond,

complete an investigation, and/or provide remedies or impose sanctions.

Concerns may be raised and complaints may be brought by a complainant. Concerns may also arise because a manager, supervisor, or other individual with oversight responsibility becomes aware of conduct potentially covered by the Regulation, either through an allegation or by direct observation. In this situation, the manager, supervisor, or other individual is required to report the situation to DII and, in some cases, may need to appropriately respond. In certain circumstances DII, upon learning of conduct potentially covered by the Regulation, may be required to take action, which may include conducting an investigation.

III. Other Resources

While oversight of these procedures rests with DII, complainants and respondents may request the help of other appropriate UNCSA resources.

Employees may seek advice and assistance from UNCSA Office of Human Resources representatives.

The resources noted above cannot provide confidentiality regarding concerns of discrimination, harassment, and/or related misconduct. UNCSA employees or faculty members who wish to

discuss a concern in a more confidential setting may contact the Employee Assistance Program at 1-877-EAP-SOLV (327-7658) or the University Ombuds at the [Ombuds Office](#). UNCSEA students who wish to discuss a concern in a more confidential setting may contact [UNCSEA Health Services](#) or [UNCSEA Counseling Services](#).

Employees, faculty, and/or students may wish to inquire as to the level of confidentiality an office, administrator, or staff can or cannot provide.

IV. Timelines within the Procedures

These procedures establish designated timelines. These timelines should ordinarily be followed, but in extenuating circumstances, [DII](#) has authority to extend such timelines. In the case of such an extension, DII will notify the relevant parties in writing accordingly, including the reason(s) for the extension. Examples of extenuating circumstances include the complexity of the case, delays due to holiday or University breaks, the unavailability of parties or witnesses, and inclement weather or other unforeseen circumstances. The phrase “business days” shall refer to those days ordinarily recognized by the UNCSEA administrative calendar as work days.

V. External Resources and Processes

Some forms of discrimination, harassment, or related misconduct may implicate federal and/or state laws. Complainants or respondents may choose to invoke external processes to resolve their concerns instead of or in addition to pursuing the procedures set forth herein. Some forms of harassment may also be criminal in nature and therefore may be pursued with the UNCSCA Campus Police or a local law enforcement agency. A complainant may choose to utilize the procedures set forth herein, report the alleged conduct to law enforcement, or both.

VI. Informal Resolution

Subject to UNCSCA's obligations set out above and when appropriate (such as when a complainant does not wish to pursue a harassment or discrimination concern through the submission of a formal complaint), DII may pursue more informal mechanisms to address a situation.

None of the possible informal resolution mechanisms noted below are required prior to filing a complaint of discrimination, harassment, or related misconduct and, in some cases, informal resolution mechanisms may not be appropriate, as in some cases of sexual misconduct. UNCSCA reserves the right to determine whether informal resolution is appropriate in a specific case.

A. Possible Mechanisms for Informal Resolution

The following is a non-exhaustive list of possible mechanisms to informally address a concern or complaint. None of the actions set forth below is required before an individual may file a complaint. Actions taken utilizing any of these mechanisms do not constitute a formal finding of a violation of the Regulation. Should any of the following mechanisms fail to resolve the matter satisfactorily, an individual may file a complaint. At any time prior to reaching a resolution, a complainant may withdraw from the informal resolution process. Respondents may withdraw from those mechanisms involving one-on-one meetings or facilitated conversations. DII shall also have the authority to determine that informal resolution is not an appropriate mechanism or that DII should instead move to a formal investigation or some other resolution process.

1. **One-on-One Meeting.** The complainant, either alone or with an appropriate third party, may meet with the individual whose behavior is causing concern, discuss the situation, and clearly communicate that the behavior is unwanted and that the complainant wishes it to cease.

2. **Intervention by Supervisor or Other Individual with Authority.** The complaining party may request assistance in addressing the behavior from an individual with supervisory authority over the person whose conduct is at issue. While UNCSEA's ability to impose discipline may be limited in the absence of a formal finding of a violation, an individual with

supervisory authority may be able to meet with the individual whose behavior is causing concern and clearly communicate that the behavior is unwanted and that the complaining party wishes it to cease.

3. Facilitated Conversation, Mediation, or Restorative Process. If all parties are willing, DII may arrange for a facilitator or mediator to help resolve the problem.

4. Training, Education, or Coaching. DII may arrange for training, education or coaching to assist in addressing the specific behaviors at issue.

B. Achievement of Informal Resolution

When possible, resolution of a complaint should be achieved in a timely manner. All reasonable efforts should be made to complete any agreed-upon informal process for resolution within 20 business days from receipt of the concern. In cases of extenuating circumstances, this timeline may be extended.

Other than intervention by a supervisor or training by DII, all informal resolutions must be agreed to by both parties.

Once an informal resolution is agreed to by all parties, the resolution is binding and a formal complaint generally may not

be filed later about the same matter.

Where appropriate, DII shall review informal resolutions achieved by another office to ensure the manner and terms of the resolution align with applicable policies. Any sanctions or disciplinary or corrective actions associated with the informal resolution should be documented by the office that developed them; sanctions or disciplinary or corrective actions arrived at through an informal process conducted by another office shall be communicated to DII.

Resolution utilizing the informal resolution process generally will not establish a violation of the Regulation. However, except for mediation and restorative process, the admission of any conduct by the respondent in the course of an informal resolution may be considered in any future proceedings under this Regulation, if such admission is either relevant to the subsequent proceedings or such prior admission demonstrates a pattern or practice of prohibited conduct.

Any breach of the terms of an informal resolution agreement may result in disciplinary action or a further claim of discrimination, harassment, or related misconduct.

VII. Formal Investigations

A. Where to File a Complaint

Complaints can be filed with [DII](#) or the [Office of Human Resources](#). All such reports will be shared with DII. Complaints against UNCSEA students should generally be submitted to the [Office of Student Conduct](#) address or using the link below, but see Appendix A to the Regulation for more information.

[Office of Student Conduct](#) 1533 S. Main Street Winston-Salem,
NC 27127 [336-631-1215](#)

B. Submitting the Complaint and Initial Review

At a minimum, the complaint should identify the complainant, the respondent, and the specific allegations of the prohibited conduct. The complainant may communicate the complaint either verbally or in writing. In either case, DII and/or the investigator will document the filing of the complaint.

Once a complaint is submitted, DII shall review the complaint to determine the most appropriate manner for responding to the allegations.

At any time prior to the conclusion of the investigation, the complainant may withdraw a complaint. However, if the allegations or information obtained through the investigation

raise issues of potential serious concern to the UNCSEA community or for other compelling reasons, DII may nonetheless proceed with an investigation. Whether the circumstances warrant an investigation in the absence of a complainant is in the discretion of DII.

C. Reports to Departments Other than DII

If a complaint is filed with any department, school, or office other than DII, the department, school, or office shall promptly convey a record of the complaint to DII. As noted above, DII shall review the complaint in order to determine the most appropriate manner for responding to the allegations. In making its determination, DII will ordinarily consult with the respective office, department, or school.

D. Investigation

Once a complaint is accepted for investigation, DII will assign an investigator from within the UNCSEA community. Upon completion of the investigation, the investigators will make findings of fact and determine whether the facts could establish a violation of the Regulation.

All parties shall have the opportunity to provide information during the investigation. The investigators will share information

obtained during the course of the investigation that is determined to be relevant with the parties and give them the opportunity to respond.

The parties have the right to an advisor of their choosing present at meetings with the investigators. To maintain the integrity of the investigation, individuals who are witnesses or potential witnesses may not serve as advisors. The advisor's role in any meeting is limited to quietly conferring with the complainant or respondent through verbal or through written correspondence. The advisor shall not engage in conduct that is disruptive to the investigative process.

Some concerns or allegations may clearly fall outside the scope of this policy. In such cases, DII may refer the matter to the Office of Student Conduct or the Office of Human Resources. In these instances, DII will, to the extent possible, notify the complainant of such. If a matter includes issues within the scope of DII's policies as well as involving other UNCSA policies, the appropriate administrators will work together to determine how to handle the matter, including whether one office or the other can handle the entire matter.

Individuals with disabilities may request reasonable accommodations during the investigative process. DII will consult with the Director of Learning Resources to determine what accommodations might be appropriate based on

documentation provided by the individual to DII or to the Coordinator of Learning Resources directly regarding the nature of the disability and its impact on the individual's ability to participate in the proceedings.

The investigation process will generally take no longer than 90 business days from the date the complaint is put into writing. If it will take longer, again, the parties will be notified.

E. Division of Institutional Integrity - Initiated Investigation

If DII has reason to believe an individual has engaged in conduct that might violate the Regulation, DII has authority to undertake an investigation, notwithstanding the absence of a filed or submitted complaint.

F. Interim Measures

When appropriate, the department(s), office(s), or school(s) involved in the matter, in consultation with DII, may take interim measures to foster a more stable and secure environment during the resolution of a complaint, including to insure the safety of the individual(s) involved (including the parties and/or witnesses). These measures may be taken prior to any determination regarding whether there has been a violation.

Possible interim measures include, but are not limited to, “No Contact Orders” between individuals; rescheduling of work shifts, classes, exams, or assignments; reassignments; leaves of absence; or changes in housing assignment. Violations of interim measures will be addressed under the Regulation.

G. Preponderance of the Evidence Standard

The standard of evidence used in the investigations and all determinations hereafter is the preponderance of the evidence standard. A preponderance of the evidence standard means that, based on the information acquired during the investigation, more likely than not a violation of the Regulation occurred.

VIII. Respondent Procedures (Employee)

A. Determination

Upon completion of the investigation, the investigator will forward their final investigation report and recommendation to the Director of Human Resources. The Director of Human Resources will then determine whether there is enough evidence to support a finding of a violation of the Regulation.

B. Disciplinary Action

If the Director of Human Resources determines that there is enough evidence to support a finding of a violation of the Regulation, they will then deliver the report to the employee's immediate supervisor. For example, a faculty member's immediate supervisor would be the Dean of the relevant School.

For faculty Respondents, the Dean will then determine the appropriate remedial or disciplinary action and prepare an Outcome Letter to include a summary of facts, an explanation of the basis for finding a violation, and a list of disciplinary actions. The Provost will then send the Respondent a written notice of intention to discharge with a written specification of the reasons. The statement includes notice of the right, upon request, to a hearing by a Faculty committee on hearings.

For staff Respondents, the immediate supervisor will determine the appropriate disciplinary action and, if discharge is applicable, will provide a written notice of intent to discharge.

C. SHRA Appeal Procedures

A grievance or complaint against a finding of violation of this Regulation must be filed within fifteen (15) calendar days of the written notice of intent to discharge. A mediation is then required to be completed within the first 35 calendar days. If

this is not successful and the Respondent wishes to continue, they may appeal to the Chancellor.

D. EHRA Appeal Procedures

Grounds for appeal are limited to the following bases:

- The Respondent was not provided appropriate notice when advance notice of discontinuation of employment is required;
- The personnel action violated the Equal Employment Opportunity and Protected Activity provisions of UNCSEA's SAAO-II & Other EHRA Administrative Employees Regulation;
- The discharge for cause or other disciplinary action was illegal or violated Board of Governors Regulation; or
- The interpretation and application of a Regulation provision was illegal or violated Board of Governors Regulation.

1. Appeal to Chancellor

The Chancellor will appoint a five-member EHRA Non-Faculty Appeals Committee (the "committee") in accordance with the requirements of UNCSEA's Grievance (SAAO-II and other EHRA) Regulation #614.

The Respondent must file a notice of appeal to the chair of the committee within ten (10) days of receiving written notice of intent to discharge. The chair shall schedule a hearing before the committee, pursuant to the requirements of UNCSEA's Grievance (SAAO-II and other EHRA) Regulation #614.

The committee shall make its written recommendations to the Chancellor within ten (10) days after the conclusion of the hearing. The Chancellor will then provide a decision to the Respondent after receipt of the committee's recommendations.

2. Appeal to Board of Trustees

If the Chancellor declines to accept a favorable recommendation or agrees with an unfavorable recommendation, the Respondent may appeal to the Board of Trustees within fourteen (14) calendar days after receiving the Chancellor's written decision. The notice of appeal must include a brief statement of the basis for the appeal (including the relevant ground of appeal) and must be delivered by certified mail, return receipt requested, or by another means that provides proof of delivery. The decision of the Board of Trustees is final with no further appeal.

C. Faculty Appeal Procedures

If, within fourteen (14) calendar days after receiving notice of intent to discharge the Respondent makes no written request for a hearing, the Respondent may be discharged without recourse to any institutional grievance or appellate procedure.

If the Respondent makes a timely written request for a hearing, the UNCSEA Reconsideration Committee has jurisdiction over discharges, pursuant to the Faculty Manual.

After the hearing, the committee will make a recommendation to the Chancellor. If the Chancellor declines to accept a favorable recommendation or agrees with an unfavorable recommendation, the Respondent may appeal to the Board of Trustees. The decision of the Board of Trustees is final with no further appeal.

IX. Respondent Procedures (Student)

A. Determination

Upon completion of the investigation, the Director of Title IX or designee will forward the final investigation report and recommendations to the Associate Director of Student Conduct. The Associate Director of Student Conduct will then

determine whether there is enough evidence (on a preponderance of the evidence standard) to support a finding of a violation of the Regulation.

The Associate Director of Student Conduct will then issue a written summons, which will include the specific charge, possible outcomes, and a brief recitation of the allegations supporting the charge. The summons will inform the student of the following options for resolution of the disciplinary charge: accept responsibility, accept responsibility but not the Outcome(s), or deny responsibility.

A Respondent who pleads “not responsible” to a summons issued by the Associate Director of Student Conduct will have the opportunity to request a Case Resolution Meeting, held no sooner than ten (10) calendar days after the student elects this resolution. The Respondent shall have the opportunity to present their evidence and defense through witness testimony and written documents. The Associate Director for Student Conduct (or designee) shall provide the Respondent and Complainant (if applicable) a written notice of the time, place, and format of the Case Resolution Meeting.

The Case Resolution Board members will oversee and conduct the Case Resolution Meeting and determine by a majority vote whether, based on a preponderance of the evidence, the respondent is responsible for the offense charged. The Board

will prepare its written decision, including a summary of facts, rationale for decision reached, and a recommendation of outcomes (if any) from the range published in the Student Code of Conduct. The document shall be prepared within five (5) calendar days of the Case Resolution Meeting's conclusion.

B. Disciplinary Actions

If the Case Resolution Board determines that the Respondent is responsible, it will submit the written recommendation of responsibility and outcome to the Vice Provost and Dean of Student Affairs within five (5) calendar days. The recommendation will briefly summarize the evidence upon which the determination is based.

Within fifteen (15) calendar days, the Vice Provost and Dean of Student Affairs (or designee) will review the evidence and record and may: remand it for a new Case Resolution Meeting (or other appropriate proceedings) or proceed to make their Final Administrative Decision. The Respondent will be notified, in writing, of the Final Administrative Decision, the evidence supporting the decision, and the right to appeal the decision.

If the final decision is suspension or expulsion, separation from UNCSA is effective immediately. If the outcome is expulsion, the outcome applies to all UNC System constituent institutions.

C. Appeals

Grounds for an appeal are limited to the following bases:

1. A violation of due process; and/or
2. A material deviation from the substantive or procedural standards adopted by the Board of Governors.

Appeals must be in writing, identify the ground(s) for appeal, and be timely submitted to the Associate Director of Student Conduct. Submissions may be made electronically via email, sent via regular mail, hand delivered, or delivered by another mechanism that insures the receipt of the written appeal within the five (5) day deadline.

Appeals against a determination of a violation committed by a high school, undergraduate, or graduate student is to be governed by the appellate procedures found in Appendix C of the High School Student Handbook and Appendix C of the College Student Handbook. There are two opportunities for appeal in accordance with this Regulation: Appeal to the Chancellor and Appeal to the Board of Trustees.

Appeal to the Chancellor

Within five (5) business days after the appeal is submitted, the Associate Director for Student Conduct shall forward the appeal to the Chancellor, along with the investigators' report and determination, but not the sanction or disciplinary action set by the responsible official .

The Chancellor may summarily deny an appeal if it is not properly based on one of the designated grounds for an appeal.

Once the Chancellor receives an appeal, the Chancellor will determine if the appeal falls within the three (3) specified grounds for appeal; those appeals that do not will be denied. The Chancellor will also provide the non-appealing party with a copy of the appeal. The non-appealing party shall be allowed five (5) business days to respond to the appeal in writing.

The Chancellor shall make a determination and notify the student within fifteen (15) calendar days after receiving the request for appeal.

VIII. Coordination with Other Policies and Procedures

Nothing in these procedures affects the rights of faculty and staff under other UNCSEA policies and procedures, such as the Faculty Hearing Committee or the Dispute Resolution Process.

However, DII should be informed of the results of any such related proceedings. The DII Discrimination, Harassment, and Related Misconduct Q&As provide further explanations of the relationship and interaction of the various procedures.