



**UNC Pembroke Title IX Policy
Prohibited Sex Discrimination,
Sex-Based Harassment and Retaliation**

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UNC Pembroke Title IX Policy
Prohibited Sex Discrimination, Sex-Based Harassment, and Retaliation

Authority: Chancellor

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Related Policies:

- [**UNC Policy Manual, The Code – Section 502 D.\(3\): Relation of the Chancellor to the Constituent Institution \(pg. 21\)**](#)
- [**UNCP POL 04.10.01 - Campus Crime Reporting Policy**](#)
- [**UNCP Policy - Prohibiting Illegal Harassment and Discrimination Policy**](#)
- [**UNC Policy Manual 700.4.1.1\[R\] - Right to an Attorney or Non-Attorney Advocate for Student and Student Organizations**](#)
- [**Family Educational Rights and Privacy Act \(FERPA\)**](#)
- [**US Department of Education - Office for Civil Rights: Dear Colleague Letter**](#)

Additional References:

- [**University of North Carolina - Campus Security Initiative**](#)
- [**UNC Pembroke Student Handbook**](#)
- [**20 U.S. Code § 1681 - Sex**](#)
- [**2020 Title IX Regulations**](#)
- [**U.S. Department of Education - Office for Civil Rights: Title IX and Sex Discrimination**](#)
- [**20 U.S. Code § 1092\(f\) - Disclosure of campus security policy and campus crime statistics**](#)
- [**Office for Civil Rights Title IX Regulations, 2020**](#)
- [**Office for Civil Rights Dear Colleague Letter, April 2015**](#)
- [**Office for Civil Rights Title IX Resource Guide, April 2015**](#)
- [**Office for Civil Rights Dear Colleague Letter, October 2010 \(Bullying\)**](#)
- [**Know Your IX**](#)
- [**Summary of the Jeanne Clery Act**](#)
- [**Campus Clarity**](#)
- [**North Carolina Coalition Against Sexual Assaults - NC Rape Crisis Centers**](#)
- [**Rape Crisis Center of Robeson County**](#)
- [**Domestic Violence and Rape Crisis Center of Scotland County**](#)
- [**Rape Crisis Volunteers of Cumberland County**](#)
- [**Friend to Friend of Moore County**](#)

Contact Information: Director, Title IX and Clery Compliance, 910.521.6281

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UNC Pembroke Title IX Policy Prohibited Sex Discrimination, Sex-Based Harassment, and Retaliation Policy

1. Introduction

- 1.1 Non-Discrimination Statement: The University of North Carolina at Pembroke (UNC Pembroke) prohibits discrimination based on a person's status as a veteran or an individual with a disability and prohibits discrimination against all individuals based on their age, race, color, religion, sex, sexual orientation, gender identity, genetic information, and national origin.
- 1.2 The university has zero tolerance for sexual harassment in all forms, including but not limited to sex-based discrimination and harassment and sexual violence committed against students, employees, visitors to the campus, and other persons who use university facilities or participate in university programs or activities. UNC Pembroke is committed to the prevention of sex-based discrimination and harassment, and sexual violence, including dating violence, domestic violence, stalking, and sexual assault.

2. Scope

- 2.1 This policy encompasses Title IX of the Education Amendments Act of 1972, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (The Clery Act) as amended by the Violence Against Women Act (VAWA) in 2013, and Title VII of the Civil Rights Act of 1964 (sexual harassment and Sexual violence offenses). Title IX of the Education Amendments of 1972, as amended, prohibits discrimination on the basis of sex in any federally funded education program or activity. Sex-based discrimination and sexual violence are forms of sexual harassment prohibited under state and federal laws, including Title IX. Sexual harassment may be verbal, non-verbal, or physical in nature, such as persistent unwanted sexual advances or requests for sexual favors. Sexual harassment also includes acts of sexual violence. The Clery Act and VAWA also prohibit sexual violence on university and college campuses and require campuses to maintain and publish crime statistics (including statistics on sexual violence) and provide training and education programs regarding prevention, awareness, and reporting. Title VII of the Civil Rights Act of 1964 also prohibits discrimination on the basis of sex, among other protected classes. It includes protections in the workplace for gay and transgender employees.¹
- 2.2 The core purpose of this policy is the prohibition of all forms of sex-based discrimination and harassment. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, discrimination takes the form of harassment, or in the case of sex-based discrimination, it can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, and domestic violence. When an alleged violation of this nondiscrimination policy is reported, the allegations are subject to resolution using UNC Pembroke's Resolution Process, which includes the option of 1) an informal resolution process (Mediation) or 2) a grievance process.
- 2.3 This Policy only applies to alleged incidents occurring on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring before August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and at <https://www.uncp.edu/resources/title-ix-clery-compliance/sexual-misconduct/sexual-harassment-policy-and-regulation>.

¹ *Bostock v. Clayton County, Georgia*, 590 US ___ (2020). Case law prohibiting discrimination, on the basis of sex, and providing protections for sexual orientation and gender identity in employment.

- 2.4 This Policy applies to all faculty, employees, students, and others participating in or attempting to participate in UNC Pembroke's program or activities, including education and employment.
- 2.5 This Policy prohibits all forms of sex discrimination on the basis of the protected characteristic(s). It may be applied to incidents, patterns, and the institutional culture/climate, all of which may be addressed by this Policy.

3. Mission Statement

- 3.1 UNC Pembroke and its Office of Title IX and Clery Compliance (TIXCC Office) are committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination and harassment based on a protected category, and retaliation for engaging in a protected activity. To ensure compliance with federal, state, and local civil rights laws and regulations and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, UNC Pembroke has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation.
- 3.2 All members of the university community are expected to engage in conduct that contributes to its culture of integrity and honor. The university prohibits its faculty, staff, and students from engaging in any form of discrimination, protected-status harassment, sexual harassment, sexual violence, and retaliation. It expects these individuals to refrain from committing acts of discrimination, bias, or sexual violence, as these policy violations jeopardize the health and welfare of our campus community.
- 3.3 In compliance with applicable federal and state legislation and university policy, the university maintains processes to provide redress and remediation to individuals or student groups who believe they have been the victim of these offenses.
- 3.4 UNC Pembroke values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

4. Rationale for Policy

- 4.1 The purpose of this policy is to provide the campus community with information for filing a complaint of sexual harassment when they feel they have been the victim of such conduct. If someone feels they have been the victim of sexual harassment by university faculty, staff, students, or any visitor to the campus, that person should notify the Office of Title IX and Clery Compliance immediately.
- 4.2 Anyone with questions regarding a possible incident of sexual harassment and wishing to make a complaint relating to sexual harassment (including sexual violence) or sex-based discrimination may do so by reporting the concern to the Title IX Coordinator, Investigator, or Deputy Title IX Coordinator: [Sexual Misconduct Reporting Form](http://www.uncp.edu/about-uncp/administration/departments/title-ix-and-clery-compliance/title-ix-sexual-misconduct-reporting-form) is found here: <http://www.uncp.edu/about-uncp/administration/departments/title-ix-and-clery-compliance/title-ix-sexual-misconduct-reporting-form> .
- 4.3 Additionally, anonymous complaints can be made by victims and third parties using the university's online [Sexual Misconduct Reporting Form](#) or by completing the [Sexual Misconduct Reporting Form](#)

[\(PDF\)](#). Note that these anonymous complaints could result in an investigation, which may be limited due to the limited and inadequate information provided.

4.4 Regardless of whether an alleged victim of sex-based discrimination or harassment ultimately files a complaint, if the university knows or has reason to know about possible sex-based discrimination, harassment, or sexual violence, it should review the matter to determine if supportive measures should be provided and remedial action is warranted. The university should take appropriate steps to eliminate any sex-based discrimination or harassment, prevent its recurrence, and remedy its effects.

5. **Notice of Nondiscrimination**

5.1 UNC Pembroke seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in public post-secondary education institutions.

5.2 UNC Pembroke does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Creed
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity
- Family responsibilities
- Gender expression
- Gender identity
- Genetic information (including family medical history)
- Marital status
- National origin (including ancestry)
- Pregnancy or related conditions
- Race
- Religion
- Residence
- Sex
- Sexual orientation
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process within the institution with the Equal Employment Opportunity Commission and other human/civil rights agencies.

5.3 This Policy covers sex-based nondiscrimination in both employment and access to educational opportunities. The prohibition of sex-based discrimination under this Policy includes discrimination and harassment based on the following protected characteristics, actual or perceived: sexual violence victim status (i.e., a victim of dating/domestic violence, stalking, and sexual assault), family responsibilities, gender expression, gender identity, marital status, pregnancy or related conditions, sex, and sexual orientation. Therefore, any member of the UNC Pembroke community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, on-campus

housing, and social access, benefits, and opportunities of any member of UNC Pembroke community, guest, or visitor on the basis of that person's actual or perceived protected characteristic(s), violates this, Policy.

5.4 UNC Pembroke will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Equal Opportunity, Harassment, and Nondiscrimination Procedures.

6. Nondiscrimination Team Contacts

6.1 UNC Pembroke has appointed the Nondiscrimination Team, comprised of the following individual(s), to coordinate UNC Pembroke's compliance with federal, state, and local civil rights laws and ordinances:

6.2 *For sex discrimination and sex-based harassment allegations:*

6.3 *Title IX Coordinator*

Ronette Sutton, JD
Director, Office of Title IX and Clery Compliance
Dr. Joseph B. Oxendine Administrative Building
129 Faculty Row
One University Drive, Pembroke, NC 28372
910.521.6398
titleixCoordinator@uncp.edu
<https://www.uncp.edu/resources/title-ix-clery-compliance>

6.4 *For discrimination and harassment allegations [not based on sex or disability]:*

Dr. Nicolette Campos
Director, Employee Relations and Workforce Development
Office of Human Resources
Lumbee Hall, Room 347
One University Dr., Pembroke, NC 28372
910.775.4341
Nicolette.campos@uncp.edu
<https://www.uncp.edu/facultystaff/human-resources>

6.5 *For disability-based allegations:*

Vanessa Hawes, M.A., Ed.S.
Director & ADA/504 Coordinator
Dr. Joseph B. Oxendine Administrative Building
Accessibility Resource Center
129 Faculty Row
One University Drive, Pembroke, NC 28372
910.521.6695
Vanessa.hawes@uncp.edu
<https://www.uncp.edu/departments/accessibility-resource-center>

7. Title IX Coordinator²

7.1 The Director of Title IX and Clery Compliance serves as the Title IX Coordinator and oversees the implementation of UNC Pembroke's Sexual Harassment Policy and Regulation (this policy). The Title IX Coordinator is primarily responsible for coordinating UNC Pembroke's efforts related to the intake, investigation, resolution, and implementation of supportive measures and sanctions to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this policy.

7.2 All parties to a Resolution Process will receive a comprehensive (electronic) brochure detailing options and resources, which the Title IX Coordinator may also go over in person with the parties, as appropriate.

7.3 Independence and Conflict of Interest

7.3.1 The Title IX Coordinator oversees the TIXCC Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and the procedures in the accompanying Regulation. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case or for or against Complainants and Respondents, generally.

7.4 To raise any concern involving bias, conflict of interest, or misconduct by the Title IX Coordinator, contact UNC Pembroke Office of General Counsel or other appropriate official [kevin.jacobs@uncp.edu or 910.775.4594]. Concerns of bias, a potential conflict of interest, or misconduct by any other Title IX Team member should be raised with the Title IX Coordinator.

7.5 Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to UNC Pembroke Office of General Counsel 910.775.4594 or other appropriate official or designee.

7.6 Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator. [titleixCoordinator@uncp.edu]

8. TIXCC Office:

8.1 **Title IX Coordinator:** The Title IX Coordinator is responsible for an unbiased oversight of the university's response to sexual harassment reports, provisions of supportive measures, and for identifying and addressing any patterns or systemic problems revealed by such reports. The Title IX Coordinator ensures that all necessary training on sexual harassment and sexual violence, grievance processes, and reporting obligations for faculty, staff, and students are conducted.

8.2 **Campus Investigator:** The Investigator oversees the prompt investigation of complaints alleging sexual discrimination and harassment; establishes findings as to whether sex-based discrimination and harassment occurred; assigns remedies (including supportive measures) necessary to address the sex-based discrimination and harassment and prevent its reoccurrence; and serves as a consultant to any disciplinary hearing panel where sexual harassment has been determined to have occurred to ensure the university's compliance with Title IX.

8.3 **Pregnant and Parenting Compliance Coordinator and Case Manager:** The Pregnant and Parenting Compliance Coordinator assists students and employees who experience pregnancy-related concerns in receiving supportive measures and resources that ensure equal access to

² Anywhere in this policy indicates "Title IX Coordinator," TIXCC Office may substitute a trained designee.

educational programs and activities. The Case Manager also maintains and documents the TIXCC Office caseload.

8.4 Title IX Deputy Coordinators:

- 8.4.1 **Student Conduct:** The associate vice chancellor for Student Affairs has been designated by the chancellor as the deputy Title IX Coordinator for complaints involving sex-based discrimination and harassment. The associate vice chancellor for Student Affairs will assist the Title IX Coordinator with investigating sexual harassment allegations in accordance with this policy and corresponding Regulation and providing appropriate supportive measures determined by the Title IX Coordinator and educational outreach to the Complainant and Respondent,
- 8.4.2 **Academic Affairs:** The associate vice chancellor for Academic Affairs has been designated by the chancellor as the deputy Title IX Coordinator for complaints involving sex-based discrimination and harassment. The associate vice chancellor for Academic Affairs will assist the Title IX Coordinator with investigating sexual harassment allegations in accordance with this policy and corresponding [Regulation/procedures] and providing appropriate supportive measures determined by the Title IX Coordinator and educational outreach to the Complainant and Respondent.
- 8.4.3 **Human Resources:** The Director for Employee Relations and Workforce Development has been designated by the chancellor as the deputy Title IX Coordinator for complaints involving sex-based discrimination and harassment. The Director for Employee Relations and Workforce Development will assist the Title IX Coordinator with investigating sexual harassment allegations arising from a Complaint submitted to the TIXCC Office and per this policy and corresponding [Regulation/procedures]. The Director for Employee Relations and Workforce Development will also assist the Title IX Coordinator in providing appropriate supportive measures as determined by the Title IX Coordinator and providing educational outreach to the Complainant and Respondent.
- 8.4.4 **Athletics:** The associate athletic director for Compliance has been designated by the chancellor as the deputy Title IX Coordinator for complaints involving sex-based discrimination and harassment. The associate athletic director for Compliance will assist the Title IX Coordinator with investigating sexual harassment allegations in accordance with this policy and corresponding regulations, providing appropriate supportive measures determined by the Title IX Coordinator, and educational outreach to the Complainant and Respondent.

9. Administrative Contact Information

- 9.1 Complaints or notice of alleged policy violations or inquiries about or concerns regarding this policy and procedures may be made internally to:

Ronette Sutton Gerber, Esq.
Director, Title IX and Clery Compliance
Title IX Coordinator
Clery Compliance Officer
The School of Education Building, Room 334
The University of North Carolina at Pembroke
One University Drive | Post Office Box 1510 | Pembroke, NC 28372
O: 910.521.6281 | F: 910.521.6165 | C: 910.674.0080
titleixCoordinator@uncp.edu
www.uncp.edu/titleixclery

10. Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating the university’s timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and retaliation.
11. UNC Pembroke recognizes that allegations under this Policy may include multiple forms of discrimination and harassment and violations of other university policies; may involve various combinations of students, employees, and other members of UNC Pembroke community; and may require the simultaneous attention of multiple university departments. Accordingly, all UNC Pembroke departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable university policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

12. External Contact Information

12.1 Concerns about UNC Pembroke’s application of this Policy and compliance with specific federal civil rights laws may also be addressed to:

<p>U.S. Department of Education Office for Civil Rights (OCR) 400 Maryland Avenue, SW Washington, D.C. 20202-1100 Customer Service Hotline #: (800) 421-3481 Facsimile: (202) 453-6012 TDD#: (877) 521-2172 OCR@ed.gov http://www.ed.gov/ocr</p>	<p>The U.S. Department of Justice Civil Rights Division 950 Pennsylvania Avenue, N.W. Educational Opportunities Section, PHB Washington, D.C. 20530 (202) 514-4092 or 1-877-292-3804 (toll-free) Facsimile: (202) 514-8337 education@usdoj.gov http://www.justice.gov/crt/</p>
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12.2 For Complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC)³

<p>US Equal Employment Opportunity Commission 434 Fayetteville Street, Suite 700 Raleigh, NC 27601 (800) 669-4000 Facsimile: (919) 856-4151 TDD: (844) 234-5122 http://www.eeoc.gov</p>	
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13. Mandated Reporting and Confidential Employees

13.1 All UNC Pembroke faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, retaliation, and Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered due to such disclosures without formal university action.

³ EEOC has jurisdiction over Title IX employment claims.

13.2 Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

13.3 If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and Policy violations. These employees will immediately pass a Notice to the Title IX Coordinator (and police if desired by the Complainant or required by law), who will act when an incident is reported.

13.4 The following sections describe UNC Pembroke's reporting options for a Complainant or third party (including parents/guardians when appropriate):

13.5 Confidential Employees

13.5.1 There are three categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; 2) Those whom UNC Pembroke has designated explicitly as Confidential Resources for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by UNC Pembroke's Institutional Review Board (IRB). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability or when required to disclose by law or court order.

13.5.2 To enable Complainants to access support and resources without filing a Complaint, UNC Pembroke has designated specific employees as Confidential Resources. Those designated by UNC Pembroke as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or UNC Pembroke official unless a Complainant has requested the information be shared.

13.5.3 If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

13.5.4 Confidential Employees

13.5.4.1 On-campus licensed professional counselors and staff

13.5.4.2 On-campus health service providers and staff

13.5.5 Designated Confidential Resources

13.5.5.1 On-campus Victim Advocates

13.6 Institutional counselors and the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during regular business hours.]

13.7 Employees with confidentiality as described above and who receive Notice within the scope of their confidential roles will submit timely anonymous statistical information to the TIXCC Office for Clery Act statistical reporting purposes.

13.8 Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of UNC Pembroke Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their misconduct, which is a chargeable offense under this Policy.

13.9 A Mandated Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience. However, they are, of course, encouraged to do so.

13.10 In addition, Complainants may speak with individuals unaffiliated with UNC Pembroke without concern that the Policy will require them to disclose information to the institution without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

14. Jurisdiction

14.1 This Policy applies to the university's education programs and activities (defined as including locations, events, or circumstances in which UNC Pembroke exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where UNC Pembroke has disciplinary authority, and to misconduct occurring within any building owned or controlled by a UNC Pembroke-recognized student organization. A Complainant does not have to be a member of the university community to file a Complaint at the discretion of the Title IX Coordinator.

14.2 This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the university's education program or activities. UNC Pembroke may also extend jurisdiction to off-campus and online conduct when the conduct affects a substantial UNC Pembroke interest.

14.3 A substantial UNC Pembroke interest includes:

14.3.1 Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat local, state, or federal law violations.

14.3.2 Any situation in which it is determined that the Respondent poses an imminent and severe threat to the health or safety of any student, employee, or other individual.

14.3.3 Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and causes social disorder.

14.3.4 Any situation substantially interferes with the university's educational interests or mission.

- 14.4 For disciplinary action to be issued under this Policy, the Respondent must be a UNC Pembroke faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the UNC Pembroke community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and remedial actions (e.g., trespassing a person from campus). UNC Pembroke can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.
- 14.5 All vendors serving UNC Pembroke through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.
- 14.6 When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.
- 14.7 Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to UNC Pembroke where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

15. Supportive Measures

- 15.1 TIXCC Office will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the university's education program or activity, including measures designed to protect the safety of all Parties and the university's educational environment and to deter discrimination, harassment, and retaliation.
- 15.2 The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. When supportive measures are offered if a Complaint has not been filed, UNC Pembroke will inform the Complainant, in writing, that they may file a Complaint with UNC Pembroke at that time or in the future. The Title IX Coordinator will work with a party to ensure their wishes concerning any planned and implemented supportive measures are considered.
- 15.3 The TIXCC Office will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair UNC Pembroke's ability to offer those supportive measures. The TIXCC Office will ensure that there is as minimal an academic/occupational impact on the Parties as possible. It will implement measures that do not unreasonably burden any party.
- 15.4 These actions may include, but are not limited to:
- Academic support, extensions of deadlines, or other course/program-related adjustments
 - Class schedule modifications, withdrawals, or leaves of absence
 - Altering campus housing assignment(s)

- Altering work arrangements for employees or student-employees
- Implementing contact restrictions (Mutual No-Communication Directives) between the Parties
- Safety planning
- Trespass, Persona Non-Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Increased security and monitoring of certain areas of the campus
- Providing campus safety escorts
- Providing transportation assistance
- Referral to counseling, medical, and other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Educational programming to the campus community
- Timely warnings
- Any other actions deemed appropriate by the Title IX Coordinator]

15.5 Violations of Mutual No-Communication Directives (no contact orders) or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

15.6 The Parties are provided with a timely opportunity to seek modification or reversal of the TIXCC Office’s decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has the authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The TIXCC Office will also allow the Parties to seek additional modification or termination of supportive measures if circumstances change. The TIXCC Office typically renders decisions on supportive measures within seven (7) business days of receiving a request. It provides a written determination to the impacted party(ies) and the Title IX Coordinator.

16. Online Harassment and Misconduct

16.1 UNC Pembroke policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below when they occur in or affect the university’s education program and activities or involve the use of university networks, technology, or equipment.

16.2 Although UNC Pembroke may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to UNC Pembroke, it will engage in various means to address and mitigate the effects. These means may include using the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to the university’s education program or activity.

16.3 Nothing in this Policy is intended to infringe upon or limit a person’s rights to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring entirely outside of UNC Pembroke’s control (e.g., not on university networks, websites, or between UNC Pembroke email accounts) will only be subject to this Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise, such communications

are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

16.4 Off-campus harassing speech by employees, whether online or in person, may be regulated by UNC Pembroke only when such speech is made in an employee's official or work-related capacity or when off-campus harassing speech affects a substantial UNC Pembroke interest as described under Jurisdiction of this Policy.

17. Inclusion Related to Gender Identity/Expression

17.1 UNC Pembroke strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

17.2 UNC Pembroke does not tolerate discrimination and harassment based on gender identity or expression. If a member of the university community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

17.3 In upholding the principles of equity and inclusion, UNC Pembroke supports the complete integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

17.4 UNC Pembroke is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. UNC Pembroke will administratively address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender diverse, may confront as they navigate systems initially designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do university processes and policies.

17.5 Concepts like misgendering and deadnaming may not be familiar to all, but understanding them is essential to UNC Pembroke's goal of being as welcoming and inclusive a community as possible.

17.6 Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that differ from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is more significant than *de minimis* harm. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

17.7 Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name rather than the name they have chosen.

17.8 To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past or is moving past, and can interfere with their health and well-being.

17.9 Again, unintentional deadnaming can often be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual and thus should be avoided.

- 17.10 This Policy should be interpreted as consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:
- 17.10.1 Maintaining the privacy of all individuals consistent with the law
 - 17.10.2 Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
 - 17.10.3 Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
 - 17.10.4 Providing professional development for employees and education for students on topics related to gender inclusion
 - 17.10.5 Encouraging all students and employees to respect the pronoun usage and identities of all members of the UNC Pembroke community
- 17.11 UNC Pembroke uses several interventions to address concerns about gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of community members to be free from gender-identity discrimination and those exercising their right to religious freedom, UNC Pembroke will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, UNC Pembroke will offer remedial solutions or enforce its Policies while respecting the rights of all members of its community.

18. Prohibited Conduct

- 18.1 Students and employees are entitled to an educational and employment environment free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.
- 18.2 The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under UNC Pembroke Policy. When speech or conduct is protected by academic freedom and the First Amendment, it will not be considered a violation of UNC Pembroke Policy. However, supportive measures will be offered to those impacted.
- 18.3 All offense definitions below encompass actual and attempted offenses.
- 18.4 Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions accordingly.
- 18.5 Violation of any other UNC Pembroke policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

18.6 Discrimination

18.6.1 Discrimination is different treatment concerning a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

18.6.2 Discrimination can take two primary forms:

18.6.2.1 Disparate Treatment Discrimination:

18.6.2.1.1 Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:

- Excludes a person from participation in;
- Denies the person benefits of or
- Otherwise adversely affects a term or condition of a person's participation in a university program or activity.

18.6.2.2 Disparate Impact Discrimination:

18.6.2.2.1 Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

- Excludes a person from participation in;
- Denies the person benefits of or
- Otherwise adversely affects a term or condition of a person's participation in a university program or activity.

18.7 Discriminatory Harassment

- unwelcome conduct on the basis of actual or perceived protected characteristic(s) that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the university's education program or activity

18.8 Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

18.8.1 **Sex-based Harassment** is a form of sex discrimination. It means sexual harassment and other harassment based on sex,⁴ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

18.8.1.1 Quid Pro Quo:

- an employee agent or other person authorized by UNC Pembroke,
- to provide an aid, benefit, or service under the university's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,

⁴ Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

18.8.1.2 on a person's participation in unwelcome sexual conduct.

Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the university's education program or activity

18.8.1.2.1 UNC Pembroke reserves the right to address offensive conduct and harassment that (1) does not rise to the level of creating a hostile environment or (2) is generic and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under UNC Pembroke Policy. Still, it may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and other Informal Resolution mechanisms.

18.8.1.2.2 For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

18.8.1.3 Sexual Assault:⁵

18.8.1.3.1 Rape:

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

18.8.1.3.2 Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

18.8.1.3.3 Incest:

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by North Carolina state law.

18.8.1.3.4 Statutory Rape:

- Sexual intercourse,
- with a person under the statutory age of consent of 16.

⁵ This would include having another person touch you sexually, forcibly, and/or without their consent.

18.8.1.4 Dating Violence, defined as:

- violence,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant’s statement, considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved. For 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.

18.8.1.5 Domestic Violence,⁶ defined as:

- violence,
- committed by a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina or
- by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of North Carolina.

18.8.1.6 Stalking: defined as:

- engaging in a course of conduct,
- directed at the Complainant, that
 - would cause a reasonable person to fear for the person’s safety, or
 - the safety of others or
 - Suffer substantial emotional distress.

18.8.1.6.1 For the purposes of this definition—

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

18.8.1.6.2 A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

18.8.1.6.3 Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

18.8.1.7 Sexual Misconduct

⁶ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

18.8.1.7.1 **Sexual Exploitation:**

- a person taking non-consensual or abusive sexual advantage of another that does not constitute Sex-based Harassment as defined above,
- for their benefit or the benefit of anyone other than the person being exploited.

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

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxing, recording a person without their consent for purposes of sexual gratification, sharing nude photos or videos of a person without their consent, disclosing private information related to a person's sexual activity, sexual partners, sexually transmitted diseases for the purpose of harassing that person,)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act or any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) to compromise that person's ability to give consent to sexual activity or to make that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes, non-consensual use of a person's name or image in the creation or sharing of sexual content)

18.9 **Other Prohibited Conduct**

18.9.1 **Bullying:**

- repeated and severe aggressive behavior

- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that the First Amendment otherwise protects.

18.9.2 **Endangerment:**

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct threatens or endangers any person's health or safety or damages their property.

18.9.3 **Hazing:**

- any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any UNC Pembroke group or organization.

18.9.3.6 For the purposes of this definition:

18.9.3.6.1 It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity or that the activity was sanctioned or approved by the student group or student organization for an allegation of hazing to be upheld.

18.9.3.6.2 It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.

18.9.3.6.3 The actions of alumni, active, new, and prospective members of a student group or student organization may be considered hazing.

18.9.3.6.4 Hazing is not confined to the student group or organization with which the person subjected to the hazing is associated.

18.9.4 **Retaliation:**

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by the university, a student, employee, or a person authorized by UNC Pembroke to provide aid, benefit, or service under the university's education program or activity,
- to interfere with any right or privilege secured by law or Policy or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the UNCP Title IX Regulation's procedures, including an Informal Resolution process, or in any other appropriate steps taken by UNC Pembroke to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

18.9.4.6 The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for UNC Pembroke to pursue Policy violations against those who make materially false statements in bad faith during a resolution under the UNCP Title IX

Regulation. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

18.9.5 **Unauthorized Disclosure:**⁷

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by UNC Pembroke or
- publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

18.9.6 **Failure to Comply/Process Interference**

- Intentional failure to comply with the reasonable directives of the Title IX Coordinator in the performance of their official duties, including with the terms of a no-contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution Agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

18.10 **Sanction Ranges**

18.10.1 The following sanction ranges apply for Prohibited Conduct under this Policy. Sanctions can be assigned outside the specified ranges based on aggravating or mitigating circumstances or the Respondent's cumulative conduct record.

- **Discrimination:** warning through expulsion or termination.
- **Discriminatory Harassment:** warning through expulsion or termination.
- **Quid Pro Quo Harassment:** warning through expulsion or termination.
- **Hostile Environment Harassment:** warning through expulsion or termination.
- **Rape:** suspension through expulsion or termination.
- **Fondling:** warning through suspension (termination for employees).
- **Incest:** warning through probation.
- **Statutory Rape:** warning through suspension (termination for employees).
- **Stalking:** probation through expulsion or termination.
- **Dating/Domestic Violence:** probation through expulsion or termination.
- **Sexual Exploitation:** warning through expulsion or termination.
- **Bullying:** warning through expulsion or termination.
- **Endangerment:** warning through expulsion or termination.
- **Hazing:** warning through expulsion or termination.
- **Retaliation:** warning through expulsion or termination.
- **Unauthorized Disclosure:** warning through expulsion or termination.
- **Failure to Comply/Process Interference:** warning through expulsion or termination.

⁷ Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

18.11 Consent, Force, and Incapacitation

18.11.1 As used in this Policy, the following definitions and understandings apply:

18.11.1.1 **Consent:** defined as:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.⁸

18.11.1.2 Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

18.11.1.3 If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

18.11.1.4 For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated based on what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

18.11.1.5 Consent can also be withdrawn once given as long as the withdrawal is reasonable and communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

18.11.1.6 Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it clearly demonstrates non-consent.

18.11.1.7 Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, remove a condom, or internal ejaculation can be considered an act of sexual assault.

18.11.1.8 Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the university to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

⁸ The State of North Carolina does not define “consent.”

18.11.1.9 Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.⁹

18.12 Force

18.12.1.1 Force is the use of physical violence and physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

18.12.1.2 Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

18.12.1.3 Coercion is unreasonable pressure for sexual activity. If sufficiently severe, coercive conduct can render a person’s consent ineffective because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

18.13 Incapacitation

18.13.1.1 Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

18.13.1.2 This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and the consumption of incapacitating substances.

18.13.1.3 Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and being drunk.

18.13.1.4 If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not violating this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is sober and exercising sound judgment.

18.14 Unethical Relationships [\(See Appendix D\)](#)

⁹ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

19 **Standard of Proof**

- 19.11 UNC Pembroke uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the university will decide whether it is more likely than not, based on the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

20 **Reports/Complaints of Discrimination, Harassment, and Retaliation**

- 20.11 A Report provides notice to UNC Pembroke of an allegation or concern about discrimination, harassment, or retaliation. It provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the university that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and decide later to make a Complaint. Reports or Complaints of discrimination, harassment, and retaliation may be made using any of the following options:

- 20.11.1 File a Complaint with, or give verbal Notice directly to, the Title IX Coordinator or any member of the TIXCC Office or the Nondiscrimination Team. Such a Complaint may be made at any time (including during non-business hours) using the telephone number, email address, or mail to the office of the Title IX Coordinator or any other TIXCC Office or Nondiscrimination Team member listed in this Policy.

- 20.11.2 Submit online Notice at https://cm.maxient.com/reportingform.php?UNCPembroke&layout_id=3 Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits the university's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants subject to anonymous Notice.

- 20.12 Reporting carries no obligation to initiate a Complaint, and in most situations, UNC Pembroke can respect a Complainant's request not to initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and safety, where the university may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, the university will maintain the privacy of information to the best of its ability. The Complainant should not fear a loss of confidentiality by giving Notice that allows UNC Pembroke to discuss and provide supportive measures in most circumstances.

21 **Time Limits on Reporting**

- 21.11 There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to UNC Pembroke's jurisdiction and significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.
- 21.12 Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and remedies, and engage in informal or formal action, as appropriate.

22 False Allegations and Evidence

- 22.11 Deliberately false and malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations made in good faith but is ultimately shown to be erroneous or do not result in a determination of a Policy violation.
- 22.12 Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate UNC Pembroke policies.

23 Confidentiality/Privacy

- 23.11 UNC Pembroke makes every effort to preserve the Parties' privacy. The university will not share the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.^{10,11} Additional information regarding confidentiality and privacy can be found in [Appendix C](#).
- 23.12 **Unauthorized Disclosure of Information:** Parties and Advisors are prohibited from disclosing information obtained by the TIXCC Office through the Resolution Process to the extent that information is the work product of UNC Pembroke (meaning it has been produced, compiled, or written by the TIXCC Office for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of university policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

24 Emergency Removal/Interim Actions/Leaves

- 24.11 UNC Pembroke can act to remove a student Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. The Title IX Coordinator performs this risk analysis and may be done with the Person of Concern Team using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

25 Federal Timely Warning Obligations

- 25.11 UNC Pembroke must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the university community.
- 25.12 UNC Pembroke will ensure that a Complainant's name and other identifying information is not disclosed while providing enough information for community members to make safety decisions in light of the potential danger.

26 Amnesty

- 26.11 The UNC Pembroke community encourages reporting misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to university officials or participate in resolution processes because they fear that they may violate specific

¹⁰ 20 U.S.C. 1232g

¹¹ 34 C.F.R. § 99

policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

- 26.12 It is in the best interests of the university community that Complainants choose to give Notice of misconduct to university officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.
- 26.13 To encourage reporting and participation in the process, UNC Pembroke offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the university, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.
- 26.13.1 **Students:** UNC Pembroke also maintains an amnesty policy for students in addition to witnesses who offer help to others in need.
- 26.13.2 **Employees:** Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. The university may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

27 Preservation of Evidence

- 27.11 Preserving evidence is critical to potential criminal prosecution and obtaining restraining/protective orders, and it is particularly time-sensitive. The university will inform the Complainant of the importance of preserving evidence by taking actions such as the following:
 - 27.12 Sexual Assault
 - 27.12.1 Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
 - 27.12.2 Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
 - 27.12.3 If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing your teeth.
 - 27.12.4 If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
 - 27.12.5 Seeking medical treatment can be essential, even if it is not to collect forensic evidence.
 - 27.13 Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment
 - 27.13.1 Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - 27.13.1.1 Make a secondary recording of any voice messages and save the audio files to a cloud server.
 - 27.13.1.2 Take screenshots and a video recording of any text or other electronic messages (e.g., Instagram, Snapchat, Facebook).

- 27.13.2 Save copies of email and social media correspondence, including notifications related to account access alerts.
- 27.13.3 Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- 27.13.4 Save copies of any messages, including those showing any request for no further contact.
- 27.13.5 Obtain copies of call logs showing the specific phone number used rather than a saved contact name if possible.
- 27.14 During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

28. Federal Statistical Reporting Obligations

- 27.15 Certain institutional officials (those deemed Campus Security Authorities) must report the following for federal statistical reporting purposes (Clery Act):
 - 27.15.1 All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
 - 27.15.2 Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
 - 27.15.3 Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking¹²
 - 27.15.4 Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations
- 27.16 All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the TIXCC Office (Clery Compliance Coordinator) for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

29. Independence and Conflicts of Interest

- 29.1 The Title IX Coordinator manages the TIXCC Office, works with the Nondiscrimination Team, and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint or for or against Complainants and Respondents, generally.
- 29.2 To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Office of General Counsel (910.775.4594). Concerns of bias,

¹² 42 U.S.C. Sections 13701 through 14040.

misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Title IX Coordinator.

30. Revision of this Policy

30.1 This Policy succeeds previous policies addressing sex-based discrimination, harassment, sexual misconduct, and retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. UNC Pembroke reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

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

30.3 This document does not create legally enforceable protections beyond the protections of the background state and federal laws that generally frame such policies and codes.

30.4 This Policy is effective August 1, 2024.

APPENDIX A: DEFINITIONS

The following definitions apply to the UNCP Title IX Policy and Regulation:

- **Advisor.** Any person chosen by a party or appointed by the TIXCC Office may accompany the party to all meetings and hearings related to the Resolution Process and advise the party on that process.
- **Attorney/Non-Attorney Advocate.** means a person chosen by a student party, and at the student's expense, to accompany the student to meetings and hearings related to the Resolution Process. The advocate can participate in all aspects of the Resolution Process. However, the student's Advisor conducts cross-examination during the hearing, if any.
- **Complainant.** (1) a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this policy; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this policy and who was participating or attempting to participate in UNC Pembroke's education program or activity at the time of the alleged sex discrimination.
- **Complaint.** An oral or written request to UNC Pembroke that can objectively be understood as a request for UNC Pembroke to investigate and decide about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only concerning information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies or
 - An employee whom UNC Pembroke has designated confidential under this Policy to provide services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services or
 - An employee conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies to information received while conducting the study.
- **Day.** A business day when UNC Pembroke is in regular operation. All references in the Policy to days refer to business days unless noted explicitly as calendar days.
- **Education Program or Activity.** Locations, events, or circumstances where UNC Pembroke exercises substantial control over the context in which the discrimination, harassment, retaliation, and Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that UNC Pembroke officially recognizes.
- **Employee.** A person employed by UNC Pembroke is either full- or part-time, including student employees, when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.

- ***Finding.*** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- ***Hearing Board Chair.*** The person or panel accepting or rejecting a submitted appeal request determines whether any appeal grounds are met and directs responsive action(s) accordingly.
- ***Hearing Board Member.*** The panel reviews evidence, determines relevance, and makes the Final Determination of whether the Policy has been violated and assigns sanctions.
- ***Informal Resolution.*** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- ***Investigation Report.*** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- ***Investigator.*** The person(s) authorized by UNC Pembroke to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- ***Knowledge.*** When UNC Pembroke receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- ***Mandated Reporter.*** A UNC Pembroke employee is obligated by Policy to share Knowledge, Notices, and reports of discrimination, harassment, retaliation, and Other Prohibited Conduct with the Title IX Coordinator.¹³
- ***Nondiscrimination Team.*** The Title IX Coordinator, any deputy Coordinators, and any member of the Resolution Process Pool.
- ***Notice.*** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, and Other Prohibited Conduct.
- ***Parent.*** Any person who has custody or placement of a human being or is seeking custody or placement of a human being.
- ***Parties.*** The Complainant(s) and Respondent(s), collectively.
- ***Pregnancy or Related Conditions.*** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related to it, or recovery.
- ***Protected Characteristics.*** A characteristic, actual or perceived, for which a person is afforded protection against discrimination under Title IX or this Policy to include sexual violence victim status (i.e., a victim of dating/domestic violence, stalking, and sexual assault), family responsibilities, gender expression, gender identity, marital status, pregnancy or related conditions, sex, and sexual orientation.

¹³ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions are directed to the Complainant and the community to address safety, prevent recurrence, and restore or preserve equal access to the university's education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and Hearing Resolution.
- **Respondent.** A person alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Sex Discrimination.** The umbrella category for Sex-Based Harassment and Sex Discrimination.
 - **Sex Discrimination.** Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. It includes discrimination based on perceived identity, whether that perception is accurate or not.
 - **Sex-Based Harassment.** Discrimination on the basis of sex includes quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, and stalking.
- **Social Access.** Access related to UNC Pembroke sponsored events, student or employee clubs and organizations, and activities where current UNC Pembroke student status and/or employment is a condition of participation or access.
- **Student.** Any person who has gained admission.
- **Supportive Measures.** Non-disciplinary, non-punitive individualized services offered by the TIXCC Office as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent (and witnesses as reasonable) before or after filing a complaint or where no complaint has been filed. Such measures are designed to restore or preserve access to UNC Pembroke's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or UNC Pembroke's educational environment or deter sexual harassment.
- **TIXCC Office.** The Office of Title IX and Clery Compliance
- **Title IX Coordinator.** At least one official designated by UNC Pembroke to ensure ultimate oversight of compliance with Title IX and UNC Pembroke's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and Other Prohibited Conduct when reported in good faith to UNC Pembroke officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any UNC Pembroke public release of information regarding the allegation(s) or underlying incident(s) whenever possible.
- Have all personally identifiable information protected from UNC Pembroke's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by UNC Pembroke officials.
- Have UNC Pembroke Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without UNC Pembroke pressure if the Title IX Coordinator approves Informal Resolution.
- Not be discouraged by UNC Pembroke officials from reporting discrimination, harassment, retaliation, and Other Prohibited Conduct to on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by UNC Pembroke in notifying such authorities if the party chooses. This also includes the right not to be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by UNC Pembroke law enforcement, security, and other UNC Pembroke officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and other services, both on-campus and in the community.
- A UNC Pembroke-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and employment situations after an alleged incident of discrimination, harassment, retaliation, and Other Prohibited Conduct if such changes are reasonably available. No formal report or investigation, institutional or criminal, must occur for this option to be available. Such actions may include, but are not limited to:
 - Relocating a residential student's housing to a different on-campus location
 - Assistance from UNC Pembroke staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation assistance
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Rescheduling or adjusting an exam, paper, and assignment
 - Receiving an incomplete in, or a withdrawal from, a class (maybe retroactive)

- Transferring class sections
 - Temporary withdrawal/leave of absence (maybe retroactive)
 - Campus safety escorts
 - Alternative course completion options
- Have UNC Pembroke maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair UNC Pembroke's ability to provide the supportive measures.
 - Receive sufficiently advanced written notice of any UNC Pembroke meetings or interviews involving another party when possible.
 - Identify and have the Investigator(s) and Decision-maker question relevant available witnesses, including expert witnesses.
 - Provide the Investigator(s)/Decision-maker with a list of questions that any party or witness may ask if deemed relevant and permissible by the Investigator(s)/Decision-maker.
 - Have the Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
 - Access the relevant evidence obtained and respond to that evidence.
 - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account on the record.
 - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law, and be given ten (10) business days to review and comment on the evidence.
 - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
 - Be informed of the names of all witnesses whose information will be used to make a finding in advance of that finding when relevant.
 - Regular status updates on the investigation and Resolution Process.
 - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
 - A Decision-making panel that is not single-sex in its composition if a panel is used.
 - Preserving confidentiality/privacy to the extent possible and permitted by law.
 - Meetings, interviews, and hearings that are closed to the public.
 - Petition that any UNC Pembroke representative in the process be recused on the basis of disqualifying bias and conflict of interest.
 - Be able to select an Advisor of their choice to accompany and assist the party in all meetings and interviews associated with the Resolution Process.
 - Apply the appropriate standard of proof, preponderance of the evidence, to make a Finding and Final Determination after objectively evaluating all relevant and permissible evidence.
 - Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.
 - Have an impact and mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation but prior to sanctioning.
 - Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).

- Be informed in writing of when a UNC Pembroke decision is considered final and any changes to the Final Determination or sanction(s) that occur post-outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), as well as the procedures for doing so by UNC Pembroke's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

APPENDIX C: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For this Policy, the terms *privacy*, *confidentiality*, and *privilege* have distinct meanings.

- **Privacy.** This means that information related to a complaint will be shared with a limited number of UNC Pembroke employees who “need to know” to provide supportive measures or evaluate, investigate, or resolve the Complaint. All employees involved in UNC Pembroke’s response to the Notice under this Policy receive specific training and guidance about sharing and safeguarding private information per federal and state law.
- **Confidentiality.** It exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by TIXCC as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the TIXCC Office can help them. Concerning Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** It exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. A provider maintains privilege unless a court order is released or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. UNC Pembroke treats employees who can have privileged communications as Confidential Employees.

The Title IX Coordinator reserves the right to determine which university officials have a legitimate educational interest in being informed about student-related incidents under this Policy under the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Hearing Facilitators, Hearing Board members, Appeal Board members, witnesses, the Parties, and the Parties’ Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties’ rights and privacy, and the institution’s unauthorized disclosure policy governs release.

UNC Pembroke may contact students’ parents/guardians to inform them of situations with significant health and safety risks. However, it will usually consult with the student before doing so.

APPENDIX D: UNETHICAL RELATIONSHIPS MODEL POLICY

Expectations Regarding Unethical Relationships

There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as faculty member-student or supervisor-employee. In reality, these relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcome conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. UNC Pembroke does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the university's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities involved in such relationships must promptly inform their supervisor and the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities of the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an applicable relationship existed before the adoption of this Policy or before employment, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes Resident Advisors (RAs) and students for whom the RA has direct responsibility. While this Policy specifically prohibits no relationships, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to the Office of Human Resources for resolution or to pursue resolution under this Policy based on the circumstances of the allegation.

APPENDIX E: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term for assessing any potential violence or danger, regardless of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and other Behavioral Intervention Team (BIT) (sometimes known as CARE team) members.

A VRA occurs in collaboration with the Person of Concern Team and must be understood as an ongoing process rather than a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. Law enforcement, criminology, human resources, and psychology research support it.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) Applying **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the TIXCC Campus Investigator will initiate the VRA process through the Person of Concern Team. The Team will assign a trained person(s) to assess according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as outlined in the UNCP Person of Concern and Behavior Threat Assessment Policy and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric,¹⁴ The Structured Interview for Violence Risk Assessment (SIVRA-35),¹⁵ Violence Risk Assessment of the Written Word (VRAWW),¹⁶ Workplace Assessment of Violence Risk (WAVR-21),¹⁷ Historical Clinical Risk Management (HCR-20),¹⁸ and MOSAIC.¹⁹

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) performing the assessment will be trained to mitigate any bias and provide the analysis and findings fairly and equitably.

¹⁴ <https://www.nabita.org/training/nabita-risk-rubric/>

¹⁵ <https://www.nabita.org/training/sivra-35/>

¹⁶ <https://www.nabita.org/training/vraww/>

¹⁷ www.wavr21.com

¹⁸ <http://hcr-20.com>

¹⁹ www.mosaicmethod.com

The Person of Concern Team member(s) conducts a VRA process and makes a recommendation to the TIXCC Campus Investigator as to whether the VRA indicates there is a substantial, compelling, imminent, and serious threat to the health and safety of a person or the community.

In some circumstances, the TIXCC Campus Investigator may determine that a VRA should be conducted by the Person of Concern Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Title IX Coordinator should pursue/initiate a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, a pattern of misconduct, a climate of discrimination, or harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to impose transcript notation or communicate with a transfer institution about a Respondent
- 8) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 9) Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

A compelling risk to health and safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and violence. Institutions may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

APPENDIX F: TIXCC RECORD MAINTENANCE AND ACCESS POLICY

Policy Scope

This Policy covers records maintained in any medium created pursuant to UNC Pembroke's Title IX Policy and Regulation and/or the regular business of UNC Pembroke's TIXCC Office. All such records are considered private or confidential by the TIXCC Office, per FERPA and the Department of Education directive to maintain the confidentiality of records related to discrimination, harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and state law. The TIXCC Office controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records pertaining to the UNCP Title IX Policy and Regulation include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by UNC Pembroke as part of the Complaint file

Drafts and Working Files: Preliminary drafts and “working files” are not considered records that UNC Pembroke must maintain, and these are typically destroyed during the course of an investigation or after the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and the Title IX Coordinator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such by FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the TIXCC Office or its designees with UNC Pembroke’s legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the TIXCC Office or accessible under this Policy unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records made pursuant to the Policy, as defined above, must be stored in digital format and maintained by the TIXCC Office. The complete file must be transferred to the TIXCC Office, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the TIXCC Office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record maintained in the TIXCC Office during the pendency of an investigation.

The TIXCC Office will store all records created under the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the TIXCC Office.

Title IX Training Materials

UNC Pembroke will maintain copies of the slides or other materials from all Title IX training for the Resolution Process Pool members, the Nondiscrimination Team, and employees. Training occurring prior to August 1, 2024, are posted online at <https://www.uncp.edu/resources/title-ix-clery-compliance/training-educational-programming>, and trainings occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the TIXCC Office for at least seven (7) years in database, digital, and paper form. Except for Title IX and the Clery Act/VAWA records, the Title IX Coordinator may authorize destruction or expungement acting at their discretion or by a duly executed and binding claim settlement and by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the TIXCC Office is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those granted broad access to the TIXCC Office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access to records covered by this Policy will be at the discretion of the appropriate disciplinary authority. It will be consistent with other relevant UNC Pembroke policies and procedures.

Student Parties may request access to their complaint file. UNC Pembroke will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, the Parties may share materials using secure file transmission software. The TIXCC Office will watermark any file with the watermark identifying the person's role in the process (e.g., Complainant, Respondent, Decision-maker, Complainant's Advisor) before sharing.

UNC Pembroke will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Expungement

UNC Pembroke will expunge records only upon court order.

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the TIXCC Office or another appropriate secure location. All physical evidence will be maintained in a reasonably protected facility from flood and fire. A catalog of all physical evidence will be retained with the Complaint file.

APPENDIX G: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of UNC Pembroke's Title IX Policy and Regulation
- UNC Pembroke's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices about investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions about all forms of harassment, discrimination, and retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing UNC Pembroke's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their responsibilities under Title IX or this part and annually after that. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term “relevant” about questions and evidence and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with UNC Pembroke’s Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- UNC Pembroke’s obligations under Title IX
- How to apply definitions used by UNC Pembroke concerning consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

APPENDIX H: 2024 TITLE IX OFFENSE REGULATORY DEFINITIONS
(Non Clery Act²⁰)

1) Sexual Assault

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.²¹

a. Rape:

- Penetration,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

b. Sodomy

- Oral or anal penetration
- Of the Complainant by the Respondent
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

c. Sexual Assault with an Object

- Respondent's use of an object or instrument
- to unlawfully penetrate, however slightly, the genital or anal opening
- of the body of the Complainant,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

d. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- or causing the Complainant to touch the Respondent's private body parts
- intentionally for a sexual purpose
- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental incapacity or physical incapacity.

²⁰ On June 10, 2024, the Department of Education Office for Civil Rights Program Legal Group responded to an inquiry about the inconsistencies between the 2024 Title IX regulatory definitions and the Clery Act regulatory definitions for sexual assault, dating violence, domestic violence, and stalking. The response stated, in part, that "OCR has consulted with FSA's Clery Office and advises that to prevent unnecessary confusion and for ease of use, Colleges and universities that must comply with Title IX and the Clery Act can use the definitions in the Clery Act regulations for these purposes." See pages 18 & 19. If an institution wishes to use the 2024 Title IX Regulatory definitions instead of the Clery Act definitions, those definitions can be found here.

²¹ This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- e. **Incest:**
 - Nonforcible sexual intercourse between persons who are related to each other
 - within the degrees wherein marriage is prohibited by North Carolina law.
- f. **Statutory Rape:**
 - Nonforcible sexual intercourse with a person
 - who is under the statutory age of consent under North Carolina law.

2) **Dating Violence:**

- Violence²² committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - length of the relationship
 - type of relationship
 - frequency of the interaction between the Parties involved in the relationship.

3) **Domestic Violence:**

- Felony or misdemeanor crimes committed by a person who:
 - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of North Carolina or a person similarly situated to a spouse of the Complainant;
 - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - shares a child in common with the Complainant; **or**
 - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of North Carolina.

4) **Stalking:**

- engaging in a course of conduct²³ on the basis of sex, that is,
- directed at a specific person that would cause a reasonable person²⁴ To:
 - fear for the person's safety, or
 - the safety of others; or
 - suffer substantial emotional distress.²⁵

²² For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

²³ For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to, watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

²⁴ Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

²⁵ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment. and counseling is not required to show substantial emotional distress.



Direct all questions or concerns regarding this policy to:

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