



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
POLICY ON PROHIBITED HARASSMENT, INCLUDING SEXUAL
MISCONDUCT, AND DISCRIMINATION

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I. Policy Statement

The University of North Carolina at Chapel Hill is committed to providing an inclusive and welcoming environment for all members of our community. In accordance with its Policy Statement on Non-Discrimination, The University of North Carolina at Chapel Hill does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's race, color, gender, national origin, age, religion, creed, genetic information, disability, veteran's status, sexual orientation, gender identity or gender expression (hereinafter his/her "protected status").

The University recognizes the rights of all members of the University community to learn and work in an environment that is free from harassment and discrimination based on his/her protected status as described above. Any such harassment or discrimination of University students and employees, including faculty, non-faculty employees who are exempt from the Personnel Act ("EPA non-faculty employees"), employees who are subject to the State Personnel Act ("SPA employees"), post-doctoral scholars, and student employees is prohibited.

This Policy also prohibits retaliation against an individual who in good faith utilizes the procedures herein included as appendices and/or participates in any investigation related to an allegation of prohibited harassment or discrimination.

The complete text of the Policy Statement on Non-Discrimination is located at <http://www.unc.edu/campus/policies/nondiscrim.pdf>.

II. Resources for Information and Assistance

The Equal Opportunity/ADA Office has primary responsibility for administering this Policy, but questions, concerns, and/or complaints may be addressed to any of the individuals or offices identified in the applicable appendix (Appendix B for students, Appendix C for EPA employees (faculty and EPA non-faculty employees), and Appendix D for SPA employees).

Individuals in these offices are prepared to help all members of the University community understand the Policy, including providing training and information and assisting units who wish to participate in online training. They are able to explain the options available for resolving concerns related to alleged harassment or discrimination in academic or work settings at the University. All offices receiving complaints of harassment or discrimination must notify the Equal Opportunity/ADA Office promptly. See Section V regarding confidentiality.

III. Applicability

It is the responsibility of every employee and student in the University community to strive to create an environment free of harassment and discrimination as described in Section I.

This Policy and associated procedures apply to University students and employees, including faculty, EPA non-faculty employees, SPA employees, post-doctoral scholars and student employees, on campus, off campus, online and study abroad. The non-discrimination provisions also applies to contractors and other third parties within the University's control.

A. In employment

The following employment practices are prohibited by the University:

1. Failing or refusing to hire or discharging any individual or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's protected status; or
2. Limiting, segregating, or classifying employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's protected status.

B. In academic and student programs

It is the policy of the University that there shall be no harassment or discrimination against any student or applicant for admission as a student because of such individual's protected status with respect to recruiting, admission, financial aid, academic progress/grading, housing and residential communities, and access to programs, including social, recreational and health programs.

IV. Protections for Complainants

During the investigation and resolution of harassment and discrimination complaints, reasonable steps should be taken to protect the complainant from both the alleged behavior and possible retaliation. The University does not tolerate any form of retaliation against a person because he/she in good faith files a complaint or cooperates in an investigation of a complaint of alleged harassment or discrimination. Any person who retaliates against another person for exercising rights under this Policy in good faith will be subject to appropriate and prompt

disciplinary action.

Any person who has a concern about potential or actual retaliation should contact the Equal Opportunity/ADA Office or any of the resources provided in the applicable appendix (Appendix B for students, Appendix C for EPA employees (faculty and EPA non-faculty employees), and Appendix D for SPA employees), for assistance in addressing the concern, and may also be able to utilize the appropriate grievance procedure within the designated time frame to address any concern not otherwise resolved.

V. Confidentiality

Because breaches of confidentiality compromise the ability of the University to investigate and resolve claims of prohibited harassment and discrimination, administrators responsible for implementing this Policy will attempt to protect the confidentiality of harassment and discrimination proceedings to the extent reasonably possible. All participants in the process are required to respect the confidentiality of the proceedings and circumstances giving rise to the dispute. Complete confidentiality however, cannot be guaranteed except when 1) a student shares a concern with Counseling and Wellness Services in Campus Health Services, and when 2) an employee shares a concern with the Ombuds Office that does not involve an imminent risk of serious harm.

The University is obligated to investigate all allegations that may constitute prohibited harassment or discrimination. Any person seeking information or guidance concerning potential harassment or discrimination should be advised that the University may need to take action once informed of an allegation whether or not the person wants to pursue a complaint.

The University may not be able to investigate an anonymous complaint unless sufficient information is provided to enable the University to conduct a meaningful and fair investigation. The University may be precluded from taking strong disciplinary action in the absence of a named complainant.

VI. Academic Freedom and Harassment

The University of North Carolina at Chapel Hill is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this Policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so.

Harassment or discrimination prohibited by this Policy is not a proper exercise of academic freedom and may not be legally protected expression. On the contrary, prohibited harassment and discrimination compromise the University's integrity, as

well as its tradition of intellectual freedom.

VII. False Allegations

A complaint of alleged harassment or discrimination may not always be able to be substantiated, but the lack of corroborating evidence should not discourage a person from seeking relief through procedures outlined in this Policy. However, it is a violation of this Policy to falsely accuse faculty, staff or students of unlawful harassment or discrimination.

VIII. Education/Prevention

As part of the University's commitment to providing an educational and work environment free from harassment and discrimination, this Policy shall be disseminated widely to the University community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. Training programs both on-line and in-person are provided for members of the University community and are required for supervisors and managers.

On-line training programs can be accessed through the Equal Opportunity/ADA Office's website at <http://equalopportunity-ada.unc.edu/equal-opportunity-training/index.htm>.

IX. Records

The Equal Opportunity/ADA Office will report annually to the Chancellor on all incidents that have been reported under this Policy.

X. Effective Date

Revised effective August 1, 2012

Revised effective March 1, 2012

Revised effective September 6, 2011

Revised effective February 1, 2011

Revised effective May 20, 2010

The initial effective date of this Policy was June 24, 2008.

XI. RELATED UNIVERSITY POLICIES

Policy Statement on Non-Discrimination
(<http://www.unc.edu/campus/policies/nondiscrim.pdf>)

Instrument of Student Judicial Governance (<http://honor.unc.edu/>)

Expedited Administrative Review by Disability Services Advisory Committee
(for students denied an accommodation for a disability)
(<http://disabilityservices.unc.edu/about-us/our-policies/part-11-grievance.html>)

Policy on Improper Relationships Between Students and Employees
(<http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/IMPROPER-RELATIONS>)

Official Recognition of Student Organizations Non-Discrimination Policy
(<http://www.unc.edu/campus/policies/studentorgnondiscrim.html>)

Student Grievance Policy and Procedures
(<http://deanofstudents.unc.edu/index.php/policies.html>)

SPA Grievance Policy (<http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA>)

EPA Non-Faculty Grievance Policy (http://hr.unc.edu/policies-procedures-guidelines/epa-non-faculty-policies/epa-nf-grievance/CCM1_018363)

Faculty Grievance Procedures (<http://faccoun.unc.edu/faculty-code-and-policies/procedures-for-the-faculty-grievance-committee/>)

Post-Doctoral Scholars Grievance Policy
(<http://postdocs.unc.edu/?q=node/20#Grievances>)

Protection on Reporting Improper Government Activities
(http://www.unc.edu/campus/policies/protect_report.html)

This Policy is maintained by the Equal Opportunity/ADA Office.

Appendix A

DEFINITIONS

The following definitions are applicable to this Policy:

- A. **Complainant** – An individual who alleges that he/she was the victim of an offense under this Policy.
- B. **Discrimination** – An intentional or unintentional act that results in adverse treatment of a person based on race, color, gender, age, color, national origin, religion, creed, genetic information, disability, veteran’s status, sexual orientation, gender identity or gender expression (“Protected Status”).
- C. **Harassment** – A form of discrimination that occurs when verbal or physical conduct based on an individual’s protected status unreasonably interferes with that individual’s work or academic performance or creates a hostile work or educational environment for that individual, including affecting his/her personal safety or participation in University-sponsored activities.
 - 1. **Hostile Environment Harassment** – Unwelcome conduct by an individual(s) against another individual based upon protected status that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile, or offensive.

The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include the severity of the conduct, the frequency of the conduct, and whether it is threatening or offensive. An isolated incident unless extremely severe will usually not amount to hostile environment harassment.

Because sexual harassment has been more thoroughly defined in the law than harassment based upon other protected categories, the following definition of sexual harassment is included in this Policy:

- 2. **Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when:
 - Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual’s education, employment, or participation in a University activity;
 - Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting that individual’s academic standing, employment status, or participation in a University activity (this is commonly referred to as “Quid Pro Quo” Harassment); or

- Such conduct unreasonably affects or interferes with an individual's academic or work performance or creates an intimidating, hostile, or offensive environment.

3. Sexual Misconduct – Sexual Harassment also includes sexual misconduct. Sexual misconduct refers to physical sexual acts perpetrated against a person without their Consent or where a person is incapable of giving Consent due to the person's use of drugs, alcohol, or other impairing substances. An individual also may be unable to give consent due to an intellectual or other disability. Sexual misconduct includes, but is not limited to, rape, sexual assault, sexual battery, and sexual coercion.

- a. Consent** – For purposes of this Policy, Consent means words or actions demonstrating a knowing and voluntary agreement to engage in mutually agreed upon sexual activity. Consent cannot be obtained by force, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another. In the case of drugs, alcohol, or other impairing substances, incapacitation is determined by how the person's decision-making ability is affected and the ability of the person to make informed judgments. The relevant standard for review is whether the person alleged to have engaged in sexual misconduct knew, or a sober, reasonable person in the same position should have known, that the Complainant was incapacitated.

D. Protected Status – The University prohibits harassment or discrimination based upon race, color, gender, age, national origin, religion, creed, genetic information, disability, veteran's status, sexual orientation, gender identity, or gender expression.

- 1. Age** – With respect to employment, individuals who are 40 years of age or older are protected from discrimination. There is no age threshold for educational programs or activities.
- 2. Color** – Discrimination or harassment based on an individual's pigmentation, complexion, or skin shade or tone.
- 3. Creed** – A well-formed and thought out set of beliefs held by more than one individual, but not necessarily belief in a supreme being. The University will accommodate an individual's observances and practices required by his/her creed, unless it is unable to reasonably accommodate an individual's creed-required observance or practice without undue hardship.
- 4. Disability** – A person with a disability is any person who has a physical or mental impairment which substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment. A person with a disability must be able to perform the essential functions of the

employment position or the academic program, with or without a reasonable accommodation.

5. **Gender** – An individual’s biological status of male or female.
 6. **Gender Expression** – The external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns, and social interactions.
 7. **Gender Identity** – An individual’s psychological sense of self as a male or female.
 8. **Genetic Information** – (A) In general – The term “genetic information” means with respect to any individual, information about – (i) such individual’s genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. (B) Inclusion of genetic services and participation in genetic research. Such terms include, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.
 9. **National Origin** – Discrimination or harassment against an individual because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background.
 10. **Race** – Discrimination or harassment based on racial or ethnic ancestry or based on a person’s physical characteristics associated with race, such as a person’s color, hair, facial features, height, and weight.
 11. **Religion** – All aspects of religious observance and practice, as well as belief, unless the University is unable to reasonably accommodate an individual’s religious observance or practice without undue hardship.
 12. **Sexual Orientation** – The inclination or capacity to develop intimate emotional and sexual relationships with people of the same gender (lesbian, gay), the other gender (heterosexual), or either gender (bisexual).
 13. **Veteran’s Status** – Covered Veterans include disabled Veterans, special disabled Veterans, Veterans of the Vietnam era and other protected Veterans as defined by federal and State law.
- E. Retaliation** – An adverse action taken against an individual because he/she in good faith has reported allegations of harassment or discrimination or has participated in an investigation of alleged harassment or discrimination. Adverse action includes overt or covert acts of reprisal, interference, restraint, penalty, or intimidation.

F. Respondent – An individual who has been accused of an offense under this Policy.

Appendix B

PROCEDURES FOR REPORTING AND RESPONDING TO STUDENT COMPLAINTS OF HARASSMENT, INCLUDING SEXUAL MISCONDUCT, AND/OR DISCRIMINATION INVOLVING UNIVERSITY EMPLOYEES

Any student who believes that he/she has been harassed, subjected to sexual misconduct, or discriminated against by a University employee based upon his/her protected status or who feels that he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment, including sexual misconduct, or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation, or may proceed directly to the Student Grievance Committee.

Questions, concerns or complaints pursuant to this Policy should be directed to the Equal Opportunity/ADA Office. Questions regarding the Student Grievance Committee process should be directed to the Office of the Dean of Students.

Allegations of harassment, including sexual misconduct, or discrimination by one student against another student are addressed in accordance with Appendix C of this Policy.

Because of the sensitive nature of alleged prohibited harassment, including sexual misconduct, or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process, as described in Section III, below. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors, and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing the Administrative Review option.

I. Time Frames

A. Filing a Complaint

The University encourages a student who has a concern involving a faculty, staff or student employee to bring a complaint within one hundred eighty (180) calendar days of the alleged prohibited harassment, including sexual misconduct, or discrimination. More information about filing a complaint is provided in Section III.A., below.

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of a student's complaint of alleged prohibited harassment, including sexual misconduct, or discrimination must notify the Equal Opportunity/ADA Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III.C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final Administrative Review Report is issued. More information about this notification is provided in Section III.D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment, sexual misconduct, or discrimination or receives a complaint from a University student alleging prohibited harassment, sexual misconduct, or discrimination, the administrator or supervisor must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute prohibited harassment, sexual misconduct, or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must promptly notify the Equal Opportunity/ADA Office and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

If an administrator becomes aware of prohibited harassment, including sexual misconduct, or discrimination of a student by another student, he/she must take steps to promptly and appropriately address the matter, including contacting the Office of the Dean of Students or the Equal Opportunity/ADA Office. Consistent with Section V. of the Policy, above, University administrators and supervisors cannot assure confidentiality if they receive information about conduct that may constitute prohibited harassment or discrimination.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint:

A Complainant should bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above, either orally or in writing. A student may also bring his/her complaint to the appropriate administrator or supervisor. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant's knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review (the "Administrative Reviewer", who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s) of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities to promptly investigate the complaint under this Policy as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity/ADA Office may also conduct the investigation.

Importantly, in situations where a student alleges that a faculty member in his/her major department or area of study has violated this Policy, the Equal Opportunity/ADA Office will assign someone outside of the department or area of study to conduct the Administrative Review.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair, and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint, unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office, of the need for an extension and request a revised date. The Equal Opportunity/ADA Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment or discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the Administrative Review process.
3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint,

including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity/ADA Office.

4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes, subject to confidentiality protections provided by the Family Educational Rights and Privacy Act (FERPA) and the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and of efforts to resolve the complaint within ten (10) calendar days after the final Administrative Review report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will also maintain an appropriate record in the confidential departmental personnel file and the appropriate student’s file.

E. Actions Taken as a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office and the

Office of Human Resources, the Academic Personnel Office, or the appropriate Dean, Director, or Department Chair. Corrective action to address the accused party's conduct may include counseling about the behavior, a letter of reprimand, or other appropriate action up to suspension or dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative academic decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University resources, such as Counseling and Wellness Services, that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Appeal to the Student Grievance Committee

A student whose complaint is not resolved through the Administrative Review Process may proceed to the Student Grievance Committee.

If a student chooses to proceed to the Student Grievance Committee, a grievance must be filed according to that Committee's established procedures, and that Committee will proceed under its established procedures.

B. Time Frames for Filing an Appeal

A student has thirty (30) calendar days from the date of notification of the Administrative Review findings to file an appeal if he/she feels that the Administrative Review failed to produce an equitable resolution.

Appendix C

PROCEDURES FOR REPORTING AND RESPONDING TO STUDENT COMPLAINTS OF HARASSMENT, INCLUDING SEXUAL MISCONDUCT, AND/OR DISCRIMINATION INVOLVING OTHER STUDENTS

Any student who believes that he/she has been harassed, subjected to sexual misconduct, or discriminated against by another University student based upon his/her protected status or who feels that he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment, including sexual misconduct, or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may contact the Student Complaint Coordinator/Deputy Title IX Officer for Students (“Student Complaint Coordinator”) or the Equal Opportunity/ADA Office with questions and concerns or to obtain information about pursuing a complaint in accordance with this Policy. Information and resources for students who believe that they have experienced harassment, including sexual misconduct, or discrimination, are described in Figure C-1.

I. Initiating a Complaint

The University encourages a Complainant who wishes to file a complaint to contact the Student Complaint Coordinator/Deputy Title IX Officer (“Student Complaint Coordinator”) or the Equal Opportunity/ADA Office as soon as possible following the first incident of alleged prohibited harassment, sexual misconduct, or discrimination.

A student with a complaint of alleged prohibited harassment, sexual misconduct or discrimination against another student may bring his/her complaint to the attention of the Student Complaint Coordinator or the Equal Opportunity/ADA Office either orally or in writing.

Any University administrator or supervisor who receives notice of a student’s complaint of alleged prohibited harassment, sexual misconduct, or discrimination must notify the Student Complaint Coordinator or the Equal Opportunity/ADA Office within five (5) calendar days of receiving the complaint. Consistent with Section II.C. of this Policy, University administrators and supervisors cannot assure confidentiality if they receive information about conduct that may constitute prohibited harassment, sexual misconduct, or discrimination.

Students may file a complaint against another student regardless of where the alleged harassment, sexual misconduct or discrimination occurred. Although there is no geographic limitation for invoking this Policy as a basis for pursuing a complaint against another student, prohibited harassment, sexual misconduct, or discrimination that occurred at a significant distance from the University campus may be more difficult to investigate and/or adjudicate.

II. Initial Meeting with Complainant

When the Student Complaint Coordinator receives information that a student may have been subjected to harassment, sexual misconduct, or discrimination, the Student Complaint Coordinator will contact the Complainant to arrange an initial meeting.

During the Complainant’s initial meeting, the Student Complaint Coordinator will talk with the Complainant about available resources for support and the options available for pursuing a complaint under this Policy. As discussed more fully below, these options include the following:

1. Informal Resolution conducted by the Office of the Dean of Students,
2. Formal Resolution before a panel of the Student Grievance Committee, or
3. Declining to move forward with the complaint process.

The University does not utilize mediation as a means of resolving allegations of sexual misconduct. Figure C-2 located at the end of this Appendix diagrams both the Informal and Formal Resolution processes that are described in more detail below.

A. Interim Protective Measures

During the initial meeting with the Complainant, the Student Complaint Coordinator will talk with the Complainant about interim measures that may be available or appropriate to protect the Complainant until the resolution process is concluded. These measures may include, but are not limited to:

1. Change of University housing assignment;
2. Issuance of a “no contact” order;
3. Restrictions upon entering certain parts of campus;
4. Changes to academic and/or University employment arrangements or schedules; and/or
5. Other measures designed to promote the safety and well-being of the parties.

The Student Complaint Coordinator will work with other campus departments and committees (e.g., the Department of Housing and Residential Education, the Office of the Dean of Students, the Office of the University Registrar, the Emergency Evaluation and Action Committee) as necessary in order to implement the appropriate protective measures.

In the event that the Complainant declines to pursue a complaint pursuant to this Policy, implementation of protective measures may still be necessary and appropriate. The Student Complaint Coordinator will advise the Complainant about the protective measures that are available to him/her.

When implementing protective measures, every effort will be made to cause as little disruption and inconvenience as possible to both parties; provided, however, that the University shall strive to allow the Complainant to remain in his or her existing University housing, academic, and/or employment arrangements.

B. Relationship to Other Proceedings

Complainants alleging harassment or sexual misconduct that constitutes a criminal offense (including, for example, assault, battery, rape, unwelcome sexual advances, or another form of violence or sexual violence), may consider filing a criminal complaint against the accused student (“Respondent”) with the appropriate law enforcement agency. Criminal investigations may be helpful in gathering relevant evidence, particularly forensic evidence, for the Informal or Formal Resolution process. For information about pursuing a criminal complaint, please contact the University’s Department of Public Safety (919) 962-8100. The Student Complaint Coordinator is available to provide assistance or support in contacting the Department of Public Safety or other appropriate law enforcement agency.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are *not* dispositive of whether prohibited harassment, sexual misconduct, or discrimination occurred under this Policy. In other words, conduct

may constitute prohibited harassment, sexual misconduct, or discrimination under this Policy even if a law enforcement agency determines that no crime has been committed and declines to prosecute.

Further, the filing of a complaint under this Policy is independent of any criminal investigation or proceeding, and the University will not wait for the conclusion of any criminal investigation or criminal proceeding before commencing its own investigation or taking interim measures to protect the Complainant and the University community, as discussed herein.

C. Declining to Move Forward with Complaint Process / Confidentiality

Although the University seeks to address a Complainant's concerns about harassment, sexual misconduct, or discrimination in a manner that honors his/her needs and preferences, there may be circumstances in which the University is unable to abide by requests for confidentiality or inaction.

During the initial meeting, the Student Complaint Coordinator will explain to the Complainant that, in certain circumstances, the University is required by law to investigate the Complainant's allegations and to take appropriate responsive measures even where the Complainant does not wish to pursue a complaint against a Respondent or has decided to withdraw a pending complaint.

Likewise, in these circumstances, the University may not be able to honor a Complainant's request that his/her identity remain confidential. Even where the University is able to honor a Complainant's request to protect his/her confidentiality, the Student Complaint Coordinator will inform the Complainant that the University's ability to fully respond to the complaint may be limited if the Complainant insists upon confidentiality.

In general, the University will weigh a Complainant's request for confidentiality or the Complainant's desire that the University take no action on his/her complaint against the following factors:

- The seriousness of the alleged harassment, sexual misconduct, or discrimination;
- Whether there have been other complaints of harassment, sexual misconduct, or discrimination involving the same Respondent; and
- The Respondent's right to receive information about the allegations, as applicable in accordance with the Family Educational Rights and Privacy Act (FERPA).

If a complainant is less than 18 years of age, the Student Complaint Coordinator may have a legal obligation to report certain instances of harassment and sexual misconduct to the North Carolina Division of Social Services or to other persons or organizations as required by law.

III. Investigation by the Equal Opportunity/ADA Office

Following the initial meeting between the Complainant and the Student Complaint Coordinator, the complaint will be referred to the Equal Opportunity/ADA Office for investigation. If the Complainant has declined to proceed with the complaint process, then the matter will be referred only after consideration of the factors set forth in Section II.C. of this Policy. The purpose of this investigation is to determine whether good cause exists to proceed with either Informal or Formal Resolution of the complaint.

A. Investigating the Complaint

The Equal Opportunity/ADA Office shall notify the Respondent, in writing, of the complaint, advise the Respondent of the need for confidentiality, and instruct the Respondent to refrain from any retaliatory behavior. The notice to the Respondent will also include a summary of the allegations, the possible sanctions, and a brief recitation of the facts asserted to support the allegations. For all allegations which could result in expulsion, the notice will include this possibility and will specify that expulsion precludes matriculation at any UNC constituent institution.

Both the Complainant and the Respondent will be given a copy of this Policy.

Both the Complainant and the Respondent may provide information relevant to the complaint, including the names of any witnesses, to the Equal Opportunity/ADA Office investigator. In addition to interviewing the Complainant and the Respondent, the investigator will make reasonable attempts to contact and interview all of the individuals who are identified as witnesses with information relevant to the allegations of prohibited harassment, sexual misconduct, or discrimination.

The Equal Opportunity/ADA Office's investigation will determine whether there is good cause to proceed to Informal or Formal Resolution of the complaint as outlined in Sections IV. and V. of this Policy. In order to make this determination, the investigator shall consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether good causes exists to find that this Policy has been violated.

The Equal Opportunity/ADA Office will promptly investigate and prepare a confidential Investigation Report within forty-five (45) calendar days of receiving the complaint, unless an extension of time is necessary in order to conduct a thorough and accurate investigation. If an extension of time is required, the Equal Opportunity/ADA Office will provide written notification of the revised date for completing the investigation concurrently to both parties.

B. Investigation Report

At the conclusion of the investigation, the Equal Opportunity/ADA Office investigator will prepare a written Investigation Report that includes factual findings, a summary of witness statements, and a determination of whether good cause exists to find that this Policy has been violated.

Consistent with FERPA, the Equal Opportunity/ADA Office will concurrently provide both parties with a copy of the Investigation Report within ten (10) calendar days after the final Investigation Report is complete.

1. Finding of Good Cause

In the event that the Investigation Report concludes that there is good cause to determine that this Policy has been violated, the Complainant may proceed with either Informal Resolution (as described in Section IV.) or Formal Resolution (as described in Section V.). Additional information regarding these processes is available from the Student Complaint Coordinator. In the event that the Complainant elects not to move forward with the complaint at this stage, the University reserves the right to pursue the complaint in accordance with the Formal Resolution process, as described in Section V., below.

2. Finding of No Good Cause

In the event that the Investigation Report concludes that there is no good cause to determine that this Policy has been violated, the complaint will be dismissed. The Complainant may, however, appeal the determination of no good cause to the Associate Vice Chancellor for Student Affairs¹. A complainant who wishes to file an appeal with the Associate Vice Chancellor for Student Affairs must file a petition no later than ten (10) calendar days from delivery to the Complainant of the Investigation Report. An appeal petition shall consist of a detailed written statement specifying the precise grounds for appeal and indicate with precision the supporting facts, and shall be signed by the Complainant.

The Associate Vice Chancellor for Student Affairs will consider the appeal petition and the Investigation Report to determine whether the original complaint is supported by good cause. If the Associate Vice Chancellor for Student Affairs concludes that there is good cause to believe that this Policy has been violated, the Associate Vice Chancellor for Students will inform both parties concurrently in writing of his/her decision, with a copy to the Student Complaint Coordinator. The Student Complaint Coordinator will then meet with the Complainant to discuss the Complainant's options for pursuing his/her complaint. Alternatively, if the Associate Vice Chancellor for Student Affairs concurs with the Equal Opportunity/ADA Office's determination that the complaint is not supported by good cause, the complaint will be dismissed, and no further action will be taken with respect to the complaint. The decision of the Associate Vice Chancellor for Student Affairs regarding whether a complaint demonstrates good cause is final and is not subject to appeal.

IV. Informal Resolution

The Informal Resolution process is one of the two options that complainants may elect in order to pursue a complaint of harassment, sexual misconduct, or discrimination against another student. A Complainant who elects to pursue Informal Resolution may, at any time, terminate the Informal Resolution process and opt, instead, for Formal Resolution before the Student Grievance Committee, as discussed more fully in Section V., below.

A. Informal Resolution Procedure

During Informal Resolution, the Dean of Students² shall review the Investigation Report prepared by the Equal Opportunity/ADA Office and meet separately with both the Complainant and the Respondent to gather additional information regarding the conduct alleged. If the Dean of Students determines that a *preponderance of the evidence* (i.e., it is more likely than not) demonstrates that the Respondent has violated this Policy based upon the conduct alleged, the Dean of Students shall identify and recommend an appropriate sanction to address the Respondent's conduct. The recommended sanction(s) shall be selected from among those identified in Section VI. of this Policy. The proposed finding of responsibility and sanction recommendation of the Dean of Students will be concurrently communicated to both the Complainant and the Respondent. The Complainant and the Respondent will then have the opportunity to either accept or reject the proposed resolution.

¹ All references to the Associate Vice Chancellor for Student Affairs shall mean the Associate Vice Chancellor for Student Affairs or his/her designee.

² All references to the Dean of Students shall mean the Dean of Students or his/her designee.

B. Both Parties Accept Proposed Resolution

If both the Complainant and the Respondent agree to the resolution that is proposed by the Dean of Students, the parties will document their acceptance in writing, and the Informal Resolution process will terminate, the sanction(s) will be imposed, and no further appeal shall be available to either party.

C. Either Party Rejects Proposed Resolution

If either party rejects the proposed resolution, the Informal Resolution process shall terminate, and the Complainant shall have the right to pursue the complaint through the Formal Resolution process as described in Section V. Upon the conclusion of the Informal Resolution process, the Student Complaint Coordinator shall meet with the Complainant to advise the Complainant regarding the Formal Resolution process. The University reserves the right to pursue the complaint in the event that the Complainant declines to take further action.

In the interim between the conclusion of the Informal Resolution and the Formal Resolution processes, the Student Complaint Coordinator and/or the Dean of Students may implement or extend Interim Protective Measures, as appropriate.

V. Formal Resolution Process / Student Grievance Committee

The Formal Resolution process is the second of the two options that complainants may elect to pursue a complaint of harassment, sexual misconduct, or discrimination against a student. During the Formal Resolution process, the Complainant and the Respondent present testimony and any available witnesses or evidence to a panel of the Student Grievance Committee. The Student Grievance Committee (“Committee”) will issue a determination regarding the grievance, as well as a sanction, where appropriate.

A. Composition of the Student Grievance Committee

The Student Grievance Committee shall be composed of the following:

1. Six (6) faculty members;
2. Six (6) staff members;
3. Six (6) student members; and
4. One (1) Committee Chair.

B. Selection of the Members of the Student Grievance Committee

1. Faculty and Staff Members

The Committee Chair and the faculty and staff members of the Committee shall be appointed by the Chancellor and shall serve at the pleasure of the Chancellor. In addition to the above-listed required members of the Committee, the Chancellor may also appoint faculty and staff alternate members. Alternate members serve in the event that there are an insufficient number of permanent faculty and staff members available to constitute a panel.

2. Student Members

Six student members of the Student Grievance Committee shall be appointed as follows:

- a. Four undergraduate students appointed by the Student Body President;
- b. Two graduate/professional students appointed by the Graduate/Professional Student Federation President.

Student members shall be appointed or re-appointed annually.

C. Training

All Committee members will receive training necessary to adjudicate grievances that may be brought before the Committee. As part of this training, Committee members will be informed about the applicable federal and State laws and University policies regarding matters within the Committee's jurisdiction. In particular, Committee members will receive training regarding what constitutes prohibited harassment, sexual misconduct, and discrimination. Committee members will also receive training regarding applicable confidentiality requirements.

D. Advisors

Within five (5) calendar days of receiving an Investigation Report, the Chair will appoint an advisor to assist each party with pre-hearing procedures and the presentation of witnesses and evidence at the hearing or at any subsequent proceedings. Only currently enrolled students or employed staff members of the University shall serve as advisors to the parties. All advisors will receive training regarding the Committee process and the advisor's role in assisting parties with the presentation of their grievance or defense. As part of this training, advisors will be informed about the applicable federal and State laws and University policies regarding matters within the Committee's jurisdiction. In particular, advisors will receive training regarding what constitutes prohibited harassment, sexual misconduct, and discrimination. Advisors will also receive training regarding applicable confidentiality requirements.

E. Committee Hearings

1. Selection of the Panel

The Chair of the Committee shall appoint a panel of three (3) members of the Committee to hear the grievance. If possible, the panel shall include one staff, one faculty, and one student member. In every case, however, there must be one student on the panel.

The Chair shall assure that no member who is being considered to serve on the panel has any real or perceived conflict of interest that would prevent him/her from rendering an impartial decision. Upon determining which members of the Committee will serve on the panel, the Chair shall forward the identities of the panel members concurrently to both parties. If either party wishes to request that a panel member be recused because the party believes the member has a conflict with, bias about, or interest in the case, the party must submit a written petition to the Chair within five (5) calendar days from the date on which the party was notified of the panel member's service setting forth the basis for the party's objection. The Chair shall render a decision regarding the party's objection to the panel member within five (5) calendar days from the date on which the Chair received the party's objection. The parties shall be similarly notified any time a panel member is replaced during or prior to the hearing, and the parties shall have a similar opportunity to file an objection to the panel member's service.

When the Committee Chair serves as a panel member, he/she may vote in the panel's decision-making process. If the Committee Chair is not participating on a particular panel, he/she will designate a panel member to chair the panel ("Panel Chair"), and that panel member shall also be allowed to vote in the panel's decision-making process. A decision of any panel shall be considered a decision of the Committee.

2. Hearing Procedures

The Panel Chair shall schedule a date and time for a hearing and will set a date for the exchange of the parties' lists of witnesses and exhibits. If the Panel Chair experiences significant difficulty in finding a time when the parties and the panel members are all available for a hearing, he/she will notify the parties of the delay.

At least ten (10) calendar days in advance of the hearing, the parties shall exchange a list of the witnesses and copies of all exhibits they expect to present at the hearing. Copies of these witness lists and exhibits shall be provided to the Panel Chair at the same time. If either party intends to present forensic evidence, a trained forensic examiner must be present and available to testify at the hearing regarding the nature of the evidence. No witness or exhibit may be presented at the hearing if the identity of the witness or a copy of the exhibit was not submitted to the other party by the established deadline.

The Panel Chair is responsible for the conduct of the hearing, including, among other things, limiting questioning and testimony to relevant issues and maintaining proper decorum. During a hearing, the parties shall have the following rights:

- The right to have one support person present at the hearing, in addition to the party's appointed advisor. The support person, who may be legal counsel, may privately consult with and advise a party but may not question witnesses or otherwise directly participate in the proceedings.
- The right to present the testimony of witnesses and other evidence relevant to the grievance.
- The right to question witnesses.
- The right to examine all submitted documents and other evidence, subject to confidentiality protections that may apply (e.g., FERPA).

A party shall not have the right to question another party; however, each party may submit proposed questions to the panel for panel members to ask of the other party if the panel members determine, in their sole discretion, that the proposed questions are designed to elicit relevant information. The panel may also independently question the parties and witnesses in order to acquire additional information about the grievance.

3. Evidence

The Investigation Report and any other information or documents gathered as part of the Informal Resolution (if applicable) shall be submitted as evidence during the hearing. In addition, the investigator who prepared the Investigation Report shall appear as a witness for questioning by the panel and the parties. However, the Committee hearing shall be a *de novo* proceeding, meaning that the matter will be considered anew by the Committee.

The panel is not bound by federal or State rules of evidence, but shall make all decisions based upon the relevant evidence submitted and/or presented as part of the proceeding. Subject to review by the other members of the Committee, the Panel Chair shall have the power to limit the introduction of evidence, testimony of witnesses, and argument of the parties to matters that are relevant and significant.

In cases involving allegations of sexual misconduct, evidence of the Complainant's sexual behavior or history may not be presented during the hearing unless the behavior or history:

- was between the Complainant and the Respondent,
- is offered for the purpose of showing that the act or acts charged were not committed by the Respondent,
- is evidence of an occurrence or occurrences of sexual behavior so distinctive and so closely resembling the Respondent's version of the alleged encounter with the Complainant as to tend to prove that the Complainant consented to the act or acts charged, or
- is evidence of sexual behavior offered as the basis of expert psychological or psychiatric opinion that the Complainant fantasized or invented the act or acts charged.

Sexual behavior otherwise admissible under this section may only be proved by evidence of specific acts and may not be proved by reputation or opinion. Until a determination is made under this section that specific evidence is admissible, no reference to the Complainant's alleged sexual behavior or history shall be made in the presence of the Committee, and no evidence of this behavior or history shall be introduced at any time during the hearing.

Prior to the time the case is set for hearing, the party seeking to introduce such evidence shall apply to the Chair of the Committee for a determination of its admissibility, or, if the Chair is designated to sit on the hearing panel, then the Chair shall designate another Committee member not otherwise involved in the proceedings. The party seeking to introduce the evidence must establish the basis for its admissibility. The Chair or designee shall determine the admissibility of the evidence and state in writing his/her findings, setting out the specific purpose for which the evidence is admissible and the reasons supporting the finding. The Chair or designee's determination on the admissibility of the evidence shall be conclusive, and no separate appeal of the admissibility finding shall be allowed. As with all evidence, the Committee panel must determine the probative value and weight, if any, to be attributed to any evidence deemed admissible, including the credibility of witnesses.

4. Recording of Proceedings

A recording or other official record shall be kept of all proceedings in which evidence is presented. The Panel Chair shall inform the parties and each witness that the proceedings will be recorded. The Panel Chair shall be responsible for the security of all records of the proceedings and shall maintain all written evidence accepted by the hearing panel.

5. Additional Procedures

When hearing grievances involving one of the following bases of prohibited harassment or discrimination, the panel shall observe all procedures contained in applicable statutes or regulations:

- a. Disability, where the circumstances alleged would be covered by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act;
- b. Gender, where the circumstances alleged would be covered by Title IX of the Civil Rights Act;
- c. Race, color, or national origin, where the circumstances alleged would be covered under Title VI of the Civil Rights Act; or
- d. Age, where the circumstances alleged would be covered by the Age Discrimination Act of 1975

To the extent this Policy conflicts with the specific statute or regulations named above, the statute or regulations shall control.

6. Decision of the Committee

Upon the conclusion of the hearing, the panel shall decide, by majority vote, whether the *preponderance of the evidence* (i.e., it is more likely than not) presented during the hearing demonstrates that the Respondent has violated this Policy based upon the conduct alleged. The panel's decision shall rest solely on the evidence and testimony presented during the hearing.

If a majority of the panel finds that this Policy has not been violated, the panel shall dismiss the grievance and inform the parties of the outcome.

If a majority of the panel finds that this Policy has been violated, the panel shall impose an appropriate sanction upon the Respondent. The recommended sanction(s) shall be selected from among those identified in Section VI. of this Policy.

Following the hearing, the Panel Chair shall provide written notification of the panel's findings and recommendations to the Respondent and shall provide the final results of the proceeding to the Complainant, in accordance with FERPA. The required notification shall be provided concurrently to both parties within ten (10) calendar days from the date on which the panel reaches its decision. A copy of the written notification of the panel's findings shall also be provided to the Office of the Dean of Students and the Student Complaint Coordinator. The Office of the Dean of Students shall be responsible for imposition of sanctions, if any, and maintenance of records as provided in Section VII. of this Policy.

E. Appeals/Further Proceedings

1. Appeal to the Chancellor or his/her Designee

Both the Complainant and the Respondent may file a petition requesting a review of the final decision of the Committee by the Chancellor³ or his/her designee.

a. Grounds for Appeal

³ All subsequent references to the Chancellor shall mean the Chancellor or his/her designee.

An appeal to the Chancellor is available only upon the following grounds:

i. Denial of Fundamental Due Process Rights

For purposes of evaluating whether the basic rights of a Complainant or Respondent were violated, the Chancellor shall determine whether a preponderance of evidence demonstrates that a party's basic rights, as provided by this Policy or under policies of the Board of Trustees or Board of Governors, were violated and, if so, whether the violation prejudiced the outcome of the hearing so as to necessitate a remand for a new hearing.

ii. Inadequate or Excessive Sanction

For purposes of evaluating whether the sanction(s) imposed by the Student Grievance Committee was inadequate or excessive based upon the standards set forth in Section VI. of this Policy, the Chancellor shall not disturb the Student Grievance Committee's determination unless the Chancellor finds that there was no reasonable basis for the sanction imposed. If the Chancellor finds that there was no reasonable basis for the sanction imposed, the Chancellor shall impose such other sanction(s) as he/she determines to be appropriate.

b. Filing an Appeal

A party who wishes to file an appeal with the Chancellor must file a petition with the Vice Chancellor for Student Affairs no later than ten (10) calendar days from delivery to the party of the Committee's written notification of its findings or the final results of the proceedings. A petition for review shall consist of a detailed written statement stating the ground or grounds for appeal and indicating with specificity the facts or circumstances supporting the appeal. The appeal petition shall be signed by the party submitting the appeal. The Vice Chancellor for Student Affairs⁴ or his/her designee will consider the petition to determine whether it is based upon the grounds for further review stated in this section and provides a sufficient factual basis for further review. If the Dean of Students determines that the petition states a permissible ground and sufficient factual basis for further review, he or she shall refer the matter to the Chancellor. If the Dean of Students determines that the petition for review does not state a permitted ground or a sufficient factual basis for further review, the Dean of Students shall notify the party in writing of this determination and the matter shall be concluded.

c. Review of Appeals

In considering a petition for further review, the Chancellor shall consider the record from the Committee proceeding and copies of all documents and other writings introduced into evidence. The party seeking further review shall be afforded an opportunity to present the basis for the petition and respond to questions, and the respondent shall be provided an opportunity to respond.

2. Appeal to the Board of Trustees

⁴ All subsequent references to the Vice Chancellor for Student Affairs shall mean the Vice Chancellor for Student Affairs or his/her designee.

Pursuant to section 502D.(3) of The Code of The University of North Carolina,⁵ in cases where the sanction imposed is suspension or expulsion, either party may appeal the final decision of the Chancellor only upon the following grounds:

- a. a violation of due process; or
- b. a material deviation from Substantive and Procedural Standards adopted by the Board of Governors, as articulated in section 700.4.1 of the University of North Carolina General Administration Policy Manual.⁶

No such appeal is available where the decision of the Chancellor is to remand the matter for further review by the Student Grievance Committee.

Notice of such appeal shall consist of a written, signed statement by the student, stating the specific ground or grounds for appeal and all of the supporting facts upon which the student bases his or her appeal. Such notice shall be submitted to the Chancellor's Office within ten (10) days from the date of the decision of the Chancellor.

3. Appeal to the Board of Governors

Pursuant to section 502D.(3) of The Code of The University of North Carolina,⁷ when the sanction is expulsion, the University's final decision is appealable to the Board of Governors.

4. Petition Based upon Newly-Discovered Evidence

A party may file a detailed written petition for a new hearing before the Committee with the Chair on the basis of newly discovered evidence only if: (1) the newly-discovered evidence provides a reasonable basis for concluding that the outcome or the sanction in the case might have been different had it been presented to the Committee, and (2) the evidence was not known to the student at the time of the original hearing and could not have been discovered through reasonable investigation. The Chair shall determine whether the petition states a sufficient factual basis for the claim, and if so shall order a new hearing to be conducted before a different panel of the Committee. If the Chair determines that the petition for a new hearing does not meet the requirements stated in this section, he or she shall dismiss the petition without grounds for further appeal.

5. External Grievance Processes

⁵ Available online at:

http://www.northcarolina.edu/policy/index.php?pg=dl&id=4428&inline=1&return_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3Dtoc%7CThe%2BCode.

⁶ Available online at:

http://www.northcarolina.edu/policy/index.php?pg=dl&id=457&inline=1&return_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3Dtoc%7CThe%2BPolicy%2BManual.

⁷ Available online at:

http://www.northcarolina.edu/policy/index.php?pg=dl&id=4428&inline=1&return_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3Dtoc%7CThe%2BCode.

Students with grievances alleging harassment or discrimination on the following bases may also have the right to file a complaint with designated federal government agencies:

- a. Disability, where the circumstances alleged would be covered by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act;
- b. Gender, where the circumstances alleged would be covered by Title IX of the Civil Rights Act;
- c. Race, color, or national origin, where the circumstances alleged would be covered under Title VI of the Civil Rights Act; or
- d. Age, where the circumstances alleged would be covered by the Age Discrimination Act of 1975

For more information about applicable federal complaint procedures, students should consult the Equal Opportunity/ADA Office.

VI. Available Sanctions

Available sanctions include, but are not limited to, the following and may be imposed individually or in combination:

- **Behavior Management.** Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.
- **“No Contact” Orders.** Compliance with orders of no contact that limit access to specific University areas or forms of contact with particular persons.
- **Community Service.** Completion of up to sixty (60) hours of community service over a period not to exceed twelve (12) weeks under guidelines established by the Dean of Students.
- **Written warning** in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Policy violation will carry more serious sanctions.
- **Probation** for a definite or indefinite period, including probation with associated conditions or requirements. Probation means that a student may remain at the University but may be required to satisfy specified conditions or requirements, report regularly to the Dean of Students, and be barred from holding any office or participating in any activity in which the student represents the University or University-recognized student organizations either within or outside the University community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements as established by the Office of the Dean of Students.
- **Suspension** including the following forms of suspension with associated conditions or requirements:
 - **Suspension for a Definite or Indefinite Period** means that the student is removed from good standing and must leave the University for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied. Academic work completed at another institution during a period in which a student is under

suspension from the University may not be transferred toward the degree, but applicable health care or insurance benefits may be continued.

- **Permanent Suspension from The University of North Carolina at Chapel Hill** means that the student is removed from good standing and must leave the University permanently without an expectation that the student may eventually return to the Chapel Hill campus. A student permanently suspended from the campus is not barred from seeking admission to another UNC system university, if that university wishes to permit such application following disclosure of the student's disciplinary record at UNC-Chapel Hill. Permanent suspension may only be imposed with the concurrence of the Chancellor and will remain in effect until the Chancellor who imposed or approved the sanction or his or her successor concludes on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education at UNC-Chapel Hill.
- **Expulsion** if approved by the Chancellor. Expulsion means that a student is removed from the University permanently and may not be admitted to any UNC system university unless and until the Chancellor who imposed or approved the sanction or his or her successor concludes on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education within the UNC system.

In making a decision regarding the appropriate sanction(s) to impose, the Dean of Students and/or the Student Grievance Committee shall consider the following factors:

- Gravity of the offense in question, including its effects upon the Complainant and its implications for other members of the campus community, and any relevant recurring patterns of misconduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community;
- Value of learning through experience so as to develop a greater sense of responsibility for one's actions and their consequences to others;
- Importance of equitable treatment for similar offenses; and
- Other compelling circumstances, so as to reach a just and appropriate resolution in each case.

VII. Records of Student Discipline

Only disciplinary cases pending and currently active sanctions of probation, suspension, or expulsion shall be noted as part of a student's transcript. Records of all disciplinary actions and sanctions imposed pursuant to this Policy shall be maintained by appropriate offices in the Division of Student Affairs as part of a student disciplinary record separate from the transcript and shall be retained for a period of ten (10) years from the date on which all appeal rights have expired or have been exhausted, and thereafter destroyed, unless destruction at the end of a lesser period shall be permitted in accordance with a disciplinary records retention policy adopted by the Chancellor. Files on pending cases will be maintained indefinitely. Disciplinary files and records of cases that result in a determination of no responsibility shall be destroyed upon the conclusion of all relevant appeals. Recordings or transcripts of hearings in which the Respondent is found responsible shall be retained for twelve (12) months

following the conclusion of any available appeal and then destroyed.

VIII. Effective Date

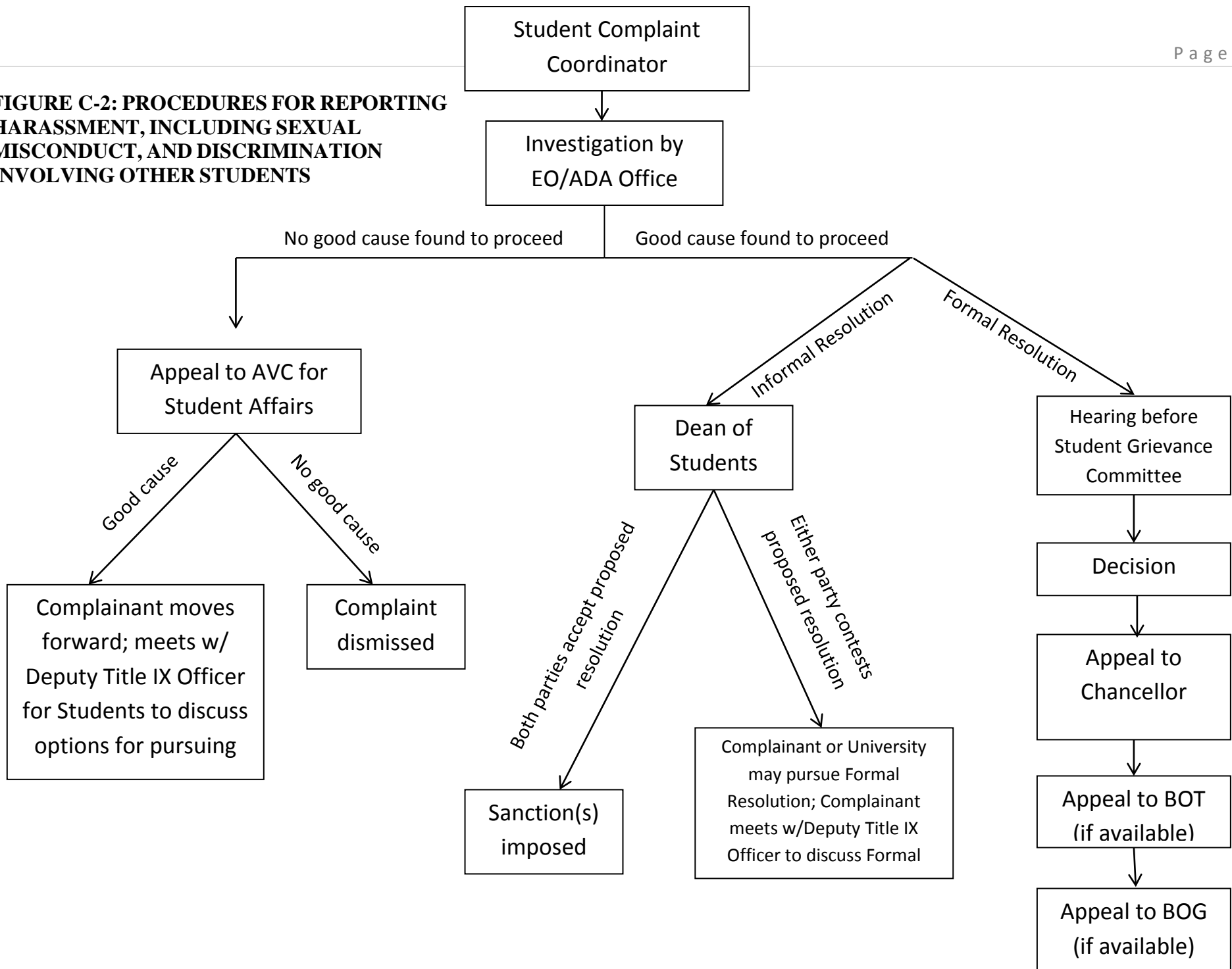
This Policy, and the procedures and processes set forth herein, shall be applicable to complaints submitted on or after August 1, 2012.

FIGURE C-1: RESOURCES FOR STUDENTS WHO HAVE EXPERIENCED HARASSMENT, INCLUDING SEXUAL MISCONDUCT, OR DISCRIMINATION

	On Campus	Off Campus
Crisis Response & Advocacy	<p>Office of the Dean of Students http://deanofstudents.unc.edu 919-966-4042</p> <ul style="list-style-type: none"> • Academic advocacy • Housing advocacy • "No contact" orders • Honor Court assistance • Options counseling <p>LGBTQ Office http://lgbtq.unc.edu 919-843-5376</p> <ul style="list-style-type: none"> • Support and referral services <p>Department of Housing & Residential Education</p> <ul style="list-style-type: none"> • Options counseling • Safe housing • <p>University Ombuds Office http://www.ombuds.unc.edu/ 919-843-8204</p>	<p>Compass Center for Women and Families http://fvpcoc.org/ 919-929-3872; 919-929-7122 (Hotline)</p> <ul style="list-style-type: none"> • Personal advocacy • Court advocacy • Emergency shelter placement <p>Orange County Rape Crisis Center www.occcc.org 919-935-4783; 1-800-WE-LISTEN</p> <ul style="list-style-type: none"> • Personal advocacy • Accompaniment to emergency room, police station, etc. • Court advocacy
Police	<p>Department of Public Safety http://www.dps.unc.edu/dps 919-962-8100</p> <ul style="list-style-type: none"> • Takes reports, including blind reports, however must investigate all reports it receives • Participates in legal and judicial action 	<p>Carrboro Police Department http://www.townofcarrboro.org/pd/default.htm 919-918-7397</p> <ul style="list-style-type: none"> • Takes reports, including blind reports • Investigates and participates in legal or judicial action <p>Chapel Hill Police Department http://nc-chapelhill.civicplus.com/index.asp?NID=70 919-968-2760</p> <ul style="list-style-type: none"> • Takes reports, including blind reports • Investigates and participates in legal or judicial action <p>Orange County Sheriff's Office http://www.co.orange.nc.us/sheriff/index.htm 919-644-3050</p> <ul style="list-style-type: none"> • Takes reports, including blind reports • Investigates and participates in legal or judicial action
Medical Attention	<p>Campus Health Services http://campushealth.unc.edu/services/acute-care/sexual-assault-response.html 919-966-3650 / After hours: 919-966-2281</p> <ul style="list-style-type: none"> • Confidential care for students • Rape exams/evidence collection • Screening and treatment of STDs • Emergency contraceptives • Treatment may be paid for by the Victim's Assistance Fund 	<p>UNC Hospital Emergency Room 919-966-4721</p> <ul style="list-style-type: none"> • Rape exams/evidence collection • After hours medical care • Emergency contraceptives • Screening and treatment of STIs • Treatment may be paid for by the Victim's Assistance Fund

	On Campus	Off Campus
Counseling	Counseling and Wellness Services http://campushealth.unc.edu/cws 919-966-3658 <ul style="list-style-type: none">Individual & group counseling & referral	Compass Center for Women and Families <ul style="list-style-type: none">Crisis counselingSupport groups Orange County Rape Crisis Center <ul style="list-style-type: none">Crisis counselingSupport groups

FIGURE C-2: PROCEDURES FOR REPORTING HARASSMENT, INCLUDING SEXUAL MISCONDUCT, AND DISCRIMINATION INVOLVING OTHER STUDENTS



Appendix D

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF EPA FACULTY AND NON FACULTY EMPLOYEES REGARDING ALLEGATIONS OF HARASSMENT AND/OR DISCRIMINATION

Any EPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

Questions, concerns or complaints pursuant to this Policy may be directed to the Equal Opportunity/ADA Office. Questions regarding the Faculty Grievance Committee should be directed to the Faculty Grievance Committee Chair. Questions regarding the EPA Non-Faculty Grievance Committee should be directed to the Office of Human Resources EPA Non-Faculty Personnel Office.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors, and Department Chairs and others in supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing the Administrative Review option.

I. Time Frames

A. Filing a complaint

1. The University encourages a faculty or EPA non-faculty employee who has a concern to bring a complaint within one hundred eighty (180) calendar days of the alleged harassment or discrimination. More information about filing a complaint is provided in Section III. A., below.
2. However, an EPA non-faculty employee who wishes to preserve his or her rights to proceed under the grievance policy must initiate a complaint under the administrative review process within thirty (30) calendar days of a specific action or decision. If initiated within this time frame, the employee is provided an extension of the normal grievance submission deadline under the EPA Non-Faculty Grievance Policy (see Section 7.c.2 of the EPA Non-Faculty Grievance Policy).

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of an EPA employee's complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III. C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final report is issued. More information about this notification is provided in Section III. D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role under his/her administrative jurisdiction, he/she must take steps to promptly and appropriately address the matter. Any employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must notify the Equal Opportunity/ADA Office, and partner with that Office, the Office of Human Resources, or other appropriate

University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint

- 1a. A faculty or EPA Non-Faculty employee with a complaint (the “Complainant”) of alleged prohibited harassment or discrimination may bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above.
- 1b. A faculty or EPA Non-Faculty employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor may also bring his/her complaint to the appropriate administrator or supervisor, either orally or in writing. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant’s knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review (the “Administrative Reviewer”, who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s) of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities under this Policy and Procedure as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the

Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity Office may also conduct the investigation.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office of the need for an extension and request a revised date. The Equal Opportunity/ADA Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment and discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the review process.
3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity/ADA Office.
4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative

Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes subject to confidentiality protections provided by the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.

2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and efforts to resolve the complaint within ten (10) calendar days after the final report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will maintain an appropriate record in the confidential departmental personnel file.

E. Actions Taken As a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair.

Corrective action to correct the accused party’s conduct may include counseling about the behavior, a written warning, or other appropriate action up to dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative performance decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University resources, such as the Ombuds Office, or Employee Assistance, that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

For faculty, information and assistance regarding formal resolution of a complaint is available from the Chair of the Faculty Grievance Committee.

For EPA Non-Faculty, information and assistance regarding formal resolution of a complaint is available from the Chair of the EPA Non-Faculty Grievance Committee or from the Office of Human Resources.

For post-doctoral scholars, information and assistance regarding formal resolution of a complaint is available from the Office of Post-Doctoral Affairs.

B. Time Frames for Filing an Appeal

1. Faculty

- a. A faculty member has thirty (30) calendar days from the date of notification of the Administrative Review findings to file a grievance if he/she feels that the Administrative Review failed to produce an equitable resolution. A grievance must be filed with the Faculty Grievance Committee according to its established procedures, and that Grievance Committee will proceed under its established procedures.
- b. Note: A faculty member who alleges prohibited harassment or discrimination as evidence that a decision not to reappoint was based upon one or more of the existing impermissible grounds stated in the Trustees' Rules and Regulations Governing Academic Tenure in The University of North Carolina at Chapel Hill (the "Tenure Regulations") must file a complaint with the Faculty Hearings Committee in accordance with Section IV of the Tenure Regulations.
- c. Librarians holding general faculty membership must file their grievance with the Faculty Grievance Committee.

2. EPA Non-Faculty

EPA non-faculty employees who have promptly initiated an Administrative Review as established by Section II.B.2, above, has ten (10) calendar days following completion of the Administrative Review process to file a grievance if he/she feels that the Administrative Review failed to produce an equitable resolution. A grievance must be filed with the EPA Non-Faculty Grievance Committee according to its established procedures, and that Grievance Committee will proceed under its established procedures (see Section 7.c.2 of the EPA Non-Faculty Grievance Policy).

3. Post-Doctoral Scholars

Post-doctoral scholars may proceed to utilize the grievance procedures established by the Office of Postdoctoral Affairs.

Appendix E

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF SPA EMPLOYEES REGARDING ALLEGATIONS OF PROHIBITED HARASSMENT OR DISCRIMINATION

Any SPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

Questions, concerns or complaints pursuant to this Policy should be directed to the Equal Opportunity/ADA Office. Questions regarding the SPA Grievance process should be directed to Employee and Management Relations in the Office of Human Resources.

Internal complaints may be handled through an Administrative Review process, as described in Section II, below. Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved through the Administrative Review Process. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing this option.

I. Time Frames

A. Filing a Complaint

1. The University encourages an SPA employee who has a concern to bring a complaint within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination. More information about filing a complaint is provided in Section III. A., below.
2. However, an SPA employee who wishes to retain rights to appeal an Administrative Review through the SPA Grievance Policy must initiate the Administrative Review process within thirty (30) calendar days of the alleged prohibited harassment or discrimination (see http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676).

3. If the Grievance Filing Form is not submitted or if an Administrative Review is not initiated within thirty (30) calendar days of the alleged act, then the SPA Grievant shall have forfeited his/her grievance rights regarding the issue. In such cases, the outcome of the Administrative Review is not eligible for appeal under the SPA Grievance Policy.
4. An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings.

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of an SPA employee's complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity/ADA Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III. C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final report is issued. More information about this notification is provided in Section III. D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or

receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role, he/she must take steps to promptly and appropriately address the matter. Any employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must notify the Equal Opportunity/ADA Office, and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint

- 1a. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination may bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above.
- 1b. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor may bring his/her complaint to the appropriate administrator or supervisor, either orally or in writing. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant's knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review

(the “Administrative Reviewer”), who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s) of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities under this Policy and Procedure as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity Office may also conduct the investigation.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office of the need for an extension and request a revised date. The Equal Opportunity Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment and discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the Administrative Review process.
3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity/ADA Office.

4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes subject to confidentiality protections provided by the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and efforts to resolve the complaint within ten (10) calendar days after the final report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will maintain an appropriate record in the confidential departmental personnel file.

E. Actions Taken As a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair.

Corrective action to correct the accused party’s conduct may include counseling about the behavior, a written warning, or other appropriate action, up to dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative performance decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University

resources, such as the Ombuds Office or the Employee Assistance Program that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

Information and assistance regarding formal resolution of a complaint is available from Employee & Management Relations in the Office of Human Resources.

B. Time frames for Filing an Appeal

If the Grievance Filing Form is not submitted to the Office of Human Resources or if an Administrative Review is not initiated within thirty (30) calendar days of the alleged harassment or discrimination, then the SPA employee shall have forfeited his/her grievance rights regarding the issue. In such cases, the outcome of the Administrative Review is not eligible for appeal under the SPA Grievance Policy.

Consistent with Section I.A., above, an SPA employee who has not otherwise filed a grievance within thirty (30) calendar days from the date of alleged prohibited harassment or discrimination may not file a grievance under the SPA Grievance Policy if he/she feels that the Administrative Review failed to produce a satisfactory resolution.

C. Appeals to the Office of Administrative Hearings

In certain cases, an SPA employee may either file a complaint directly with the State's Office of Administrative Hearings (for more information see the Office of Human Resources' website at http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676) or may file a complaint with the State's Office of Administrative Hearings after the completion of the University's internal grievance procedure. See "Direct Appeal To Office Of Administrative Hearings" in the SPA Grievance Policy for more information on eligibility and procedures.

The University has 60 calendar days in which to respond to an employee's written complaint of prohibited harassment or discrimination. After 60 calendar days has been reached, if the SPA employee is not satisfied with the University's response, he/she may appeal to the Office of Administrative Hearings within 30 calendar days. If the University issues a written decision

in fewer than 60 calendar days and waives additional time in writing, and the SPA employee acknowledges in writing his/her receipt of the decision and the waiver, then the SPA employee may appeal to the Office of Administrative Hearings within 30 calendar days of his/her receipt of the decision.

An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings (for more information see the Office of Human Resources' website at http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676).