

**SEXUAL HARASSMENT POLICY**  
**WINGATE UNIVERSITY**

2021-2022  
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# **SEXUAL HARASSMENT POLICY**

2021-2022

## **IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL ASSAULT:**

If you or someone you know may have been a victim of Sexual Assault, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A WEEK, FROM  
THE OFFICE OF CAMPUS SAFETY  
704.233.8999**

During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one of the following individuals:

**Dr. Nancy Randall, Title IX Coordinator**  
Efird Memorial Library  
[nrandall@wingate.edu](mailto:nrandall@wingate.edu)  
704.233.8065

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see **Exhibit A** attached to this Policy.

# SEXUAL HARASSMENT POLICY

2021-2022

## ARTICLE I. INTRODUCTION

### Section 1.01 Notice of Nondiscrimination.

In accordance with the provisions of Title IX and 34 CFR § 106.8, Wingate University does not unlawfully discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.

The following individuals have been designated to handle inquiries regarding Wingate University nondiscrimination policies.

- Inquiries concerning nondiscrimination on the basis of sex may be referred to **Wingate's Title IX Coordinator** (or to the U.S. Department of Education's Office for Civil Rights (District of Columbia Office)). The Wingate University Title IX Coordinator is Dr. Nancy Randall, whose office is located in the Efir Building. Dr. Randall may be contacted by phone at 704.233.8065 or by email at [nrandall@wingate.edu](mailto:nrandall@wingate.edu)
- Inquiries concerning nondiscrimination on the basis of a student's disability may be referred to **the Office of Disability Services**, Ms. Kristin Wharton. Ms. Wharton's office is located on the 2<sup>nd</sup> Floor of the Ethel K. Smith Library. Ms. Wharton may be contacted by phone at 704.233.8366 or by email at [kwharton@wingate.edu](mailto:kwharton@wingate.edu)
- All other inquiries concerning nondiscrimination may be referred to Ms. Sherri Satterfield, **Office of Human Resources**. Ms. Satterfield's office is located in the Stegall Administration Building. Ms. Satterfield may be contacted by phone at 704.233.8810 or by email at [s.satterfield@wingate.edu](mailto:s.satterfield@wingate.edu).

### Section 1.02 Background.

Wingate University (the "University") is committed to maintaining and strengthening an environment founded on civility and respect. Sexual Harassment, as defined by this Sexual Harassment Policy (this "Policy"), is antithetical to the values and standards of the University community, is incompatible with the safe, healthy environment that the University community expects and deserves, and will not be tolerated.

The University is committed to providing programs, activities, and an educational and work environment free from sex discrimination. The University is also committed to fostering a community that promotes prompt reporting of all types of Sexual Harassment and timely and fair resolution of Sexual Harassment Formal Complaints. In furtherance of these commitments, this Policy sets forth available resources ([Exhibit A](#)), describes prohibited conduct (Article II), and establishes procedures for responding to Reports and Formal Complaints of Sexual Harassment (Articles III-VIII).

The University will make this Policy and information about recognizing and preventing Sexual Harassment readily available to all members of the University community.

The University is committed to eliminating Sexual Harassment, preventing its recurrence, and addressing its effects.

### **Section 1.03 Applicability of This Policy.**

This Policy applies to any allegation of Sexual Harassment made by or against a student or an employee of the University or a third party, regardless of the sex, sexual orientation, sexual identity, gender, gender expression, or gender identity of any party, if the conduct giving rise to the Complaint is related to the University's United States academic, educational, athletic, or extracurricular programs or activities.

In the case of allegations of Sexual Harassment, unless otherwise stated, this Policy supersedes and applies in lieu of all other procedures and policies set forth in other University documents.

### **Section 1.04 Period of Limitations.**

A Report or Formal Complaint of Sexual Harassment may be filed at any time, regardless of the length of time between the alleged Sexual Harassment and the decision to file the Formal Complaint. However, the University strongly encourages individuals to submit Reports or file Formal Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in submitting a Report or filing a Formal Complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent is employed by the University or enrolled as a student at the time the Complaint is filed.

### **Section 1.05 Definitions Applicable to This Policy.**

Capitalized terms used in this Policy have the meanings given to them in Exhibit B.

## **ARTICLE II. STATEMENTS OF POLICY**

### **Section 2.01 Prohibition on Sexual Harassment.**

This Policy is designed to protect the rights and needs of alleged victims and Respondents. Creating a safe environment is the responsibility of all members of the University community.

The University prohibits Sexual Harassment. The University strongly encourages prompt reporting of all types of sexual misconduct, including Sexual Harassment, and is committed to fostering a community that promotes timely and fair resolution of sexual misconduct and Sexual Harassment cases.

However, not all unwelcome conduct of a sexual nature rises to the level of warranting adjudication and/or discipline pursuant to this Policy. Although the University will properly address all allegations of sexual misconduct, this Policy uses the term “Sexual Harassment,” as defined in Exhibit B, to identify those acts of Sexual Harassment that do warrant adjudication under, and discipline pursuant to, this Policy.

### **Section 2.02 Prohibition on Retaliation.**

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a Report or Formal Complaint of Sexual Harassment, or any complaint of unlawful discrimination, is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures, as deemed appropriate in the University’s discretion. Any person who feels that he or she has been subjected to Retaliation should make a report to the Assigned Deputy Title IX Coordinator.

### **Section 2.03 Prohibition on Providing False Information.**

Any individual who knowingly files a false Complaint under this Policy, who knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a Complaint may be subject to disciplinary action.

### **Section 2.04 Related Misconduct.**

The Hearing Board may hear allegations of and impose sanctions for alleged misconduct that is related to the Sexual Harassment at issue, even if such related misconduct is not, when standing alone, governed by this Policy.

### **Section 2.05 Limited Immunity.**

The University considers the reporting and adjudication of Sexual Harassment cases on campus to be of paramount importance. The University does not condone underage drinking. However, the University may extend amnesty to alleged victims, Third-Party Reporters, and those assisting victims of Sexual Harassment from punitive sanctioning for illegal use of drugs and/or alcohol. Please refer to the University’s Amnesty Policy (printed in the Undergraduate Student Handbook) for details regarding the circumstances under which amnesty will be granted.

## **Section 2.06 Individuals with Disabilities.**

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy. Requests for student accommodations must be made to the **Office of Disability Services** (located on the 2<sup>nd</sup> floor of the Ethel K. Smith Library) and available from 8:30am-5pm, Monday-Friday. All other requests for accommodations must be made to the Office of Human Resources (located on the 2<sup>nd</sup> floor of the Stegall Administration Building).

## **Section 2.07 Sexual Harassment Education.**

The University is committed to the prevention of Sexual Harassment and routinely conducts outreach and educational programming designed to increase awareness of the prevalence of Sexual Harassment involving college-age students and other University constituents, inform the University community about issues related to Sexual Harassment such as substance abuse and the role of the bystander, and promote knowledge of the University's Sexual Harassment Policy.

- (a)** The University regularly conducts Sexual Harassment training for its constituents, including the following groups:
  - (i)** Title IX Coordinator & Deputy Title IX Coordinators
  - (ii)** Investigators
  - (iii)** Members of the Hearing Board & the Appeals Board
  - (iv)** Employees
  - (v)** Students
  - (vi)** Campus Safety Officers
- (b)** These groups listed in Section 2.07(a) are trained, as appropriate and applicable, on such subjects as:
  - (i)** This Sexual Harassment Policy.
  - (ii)** Title IX and related regulatory guidance, including the meaning of sexual harassment as defined by 34 CFR § 106.30.
  - (iii)** The University's responsibility to address allegations of Sexual Harassment.
  - (iv)** Recognizing and responding to reports of Sexual Harassment.
  - (v)** How to conduct an investigation into Formal Complaints of Sexual Harassment.
  - (vi)** How to investigate and adjudicate Formal Complaints of Sexual Harassment in an impartial manner by avoiding bias, conflicts of interest, and prejudgment of the facts at issue.

- (vii)** Understanding common and counterintuitive victim responses (during and after an incident) and the effect of Sexual Harassment on victims.
- (viii)** Understanding the link between substance abuse and Sexual Harassment.
- (ix)** Which employees are “Responsible Employees” and which individuals and offices are “Strictly Confidential Resources”.
- (x)** Understanding what questions and evidence are relevant to determination of responsibility for alleged Sexual Harassment.
- (xi)** Reasonable, appropriate, and sensitive investigative, interview, and hearing techniques that protect victim safety.
- (xii)** Issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking.



## ARTICLE III. CONFIDENTIALITY

### Section 3.01 Confidentiality in Reporting and Disclosure.

The University encourages victims of Sexual Harassment to talk to someone about what happened, both so that they can get the support they need and so that the University can respond appropriately. The University wants individuals to be aware of the various reporting and confidential disclosure options available to them so that they can make informed choices about where to turn should they be subjected to Sexual Harassment.

**(a) Licensed Mental Health Counselors, the Minister to Students, and Medical Staff.** Individuals may discuss alleged Sexual Harassment in strict confidence with University employees who work in the following offices (“Strictly Confidential Resources”):

- (i)** Counseling Services at 704.233.8979 or [counseling@wingate.edu](mailto:counseling@wingate.edu)
- (ii)** Minister to Students at 704.233.8026 or [djordan@wingate.edu](mailto:djordan@wingate.edu)
- (iii)** Health Center at 704.233.8102 or [health.center@wingate.edu](mailto:health.center@wingate.edu)

This means that Personally Identifiable Information shared with Strictly Confidential Resources is not part of students’ or employees’ University records and will not be reported to other University personnel (including the Title IX Coordinator), to the Respondent, or to others (unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged Sexual Harassment involving a minor or under conditions involving imminent physical harm, for example)).

Strictly Confidential Resources are not Responsible Employees and therefore are not required to (and will not, absent direction from the disclosing individual to do so) report incidents of alleged Sexual Harassment to the Title IX Coordinator. For purposes of clarity, please understand that many of the University employees who are not Strictly Confidential Resources are Responsible Employees. Communications made to Responsible Employees (and others) are not entitled to the same confidentiality protections as those made to Strictly Confidential Resources.

**(b) The Title IX Coordinator and Responsible Employees.** A disclosure to the Title IX Coordinator or a Responsible Employee constitutes a report to the University and obligates the University to investigate the incident and take appropriate steps to address the allegations, which may include disclosures as contemplated by Section 3.02(a). *See the definition of “Responsible Employee” in Exhibit B for a list of the University’s Responsible Employees.*

### Section 3.02 Confidentiality in the Investigation and Resolution Processes.

**(a) Sharing of Information (Applicable to Reports and Formal Complaints).** The University will respect and will make every feasible effort to avoid the inappropriate disclosure of the information shared by and the identities of the parties involved in Sexual Harassment matters.

Information regarding alleged Sexual Harassment will generally be disclosed by University personnel during the investigation and resolution processes only as follows:

- (i) University personnel will (and are obligated to) handle information regarding alleged Sexual Harassment in accordance with applicable local, state, and federal laws. For example:
    - 1) Under conditions of potential imminent harm to the community, the University may be required by federal law to inform the community of the occurrence of the alleged incident(s) of Sexual Harassment.
    - 2) Information regarding the alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.
  - (ii) University personnel may report alleged Sexual Harassment to local law enforcement if warranted by the nature of the allegations at issue or if required by law.
  - (iii) University administrators will share information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment.
- (b) **Requests for Confidentiality.** If information regarding alleged Sexual Harassment is shared with the Title IX Coordinator and/or a Responsible Employee, but the alleged victim desires that
- the information not be shared with other Responsible Employees, with the Respondent, or with others, even as appropriate and necessary to address the allegations,
  - that the University not investigate the information, or
  - that no disciplinary action be taken,
- the victim must request that the University treat such information as confidential. This signed, written request must be made to the Assigned Deputy Title IX Coordinator (or, if such determination has not yet been made, to the Title IX Coordinator).
- (i) **Evaluation of the Request.** The University takes requests for confidentiality seriously; however, granting such requests may limit the University's ability to investigate and take reasonable action in response to a Complaint. The Assigned Deputy Title IX Coordinator (or, if such determination has not yet been made, the Title IX Coordinator) will evaluate the request for confidentiality in the context of the University's commitment to provide a reasonably safe and non-discriminatory environment and will determine whether such request will be granted. In order to make such a determination, the Assigned Deputy Title IX Coordinator (or, if such determination has not yet been made, the Title IX Coordinator) may conduct a preliminary investigation into the alleged Sexual Harassment and may weigh requests for confidentiality against the following factors, among others:
    - 1) the seriousness of the alleged Sexual Harassment (including, but not limited to, whether the Sexual Harassment was perpetrated with a weapon);
    - 2) the increased risk that the alleged perpetrator will commit additional acts of Sexual Harassment, such as (A) whether there have been other reports or complaints against the alleged perpetrator, (B) whether the alleged

perpetrator has a history of arrests or records from a prior school indicating a history of Sexual Harassment or a history of violence, (C) whether the alleged perpetrator threatened further Sexual Harassment or threatened violence against the victim or others, or (D) whether the Sexual Harassment was committed by multiple perpetrators;

- 3) whether the information reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group or person;
- 4) the Respondent's right to receive information about the allegations if the information is maintained by the University as an Education Record;
- 5) whether the victim is a minor; and
- 6) whether the University possesses other means to obtain relevant evidence of the Sexual Harassment (e.g., security cameras or security personnel, physical evidence).

The presence of one or more of these factors may lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University may honor the request for confidentiality.

- (ii) **Determination as to Whether Request Can Be Granted.** The Assigned Deputy Title IX Coordinator (or, if such determination has not yet been made, the Title IX Coordinator) will inform the person requesting confidentiality whether the University intends to honor the request or whether the University intends to pursue investigation and/or resolution in spite of the request.

**If the University determines that it cannot maintain confidentiality**, it will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for addressing the allegations. The University will also take ongoing steps to protect the victim from Retaliation or harm and work with the victim to create a safety plan, if warranted, and assist the victim in accessing other services and interim measures (see Section 6.03(a)).

**If the University honors the request for confidentiality**, the University's ability to investigate and take reasonable action in response to an allegation of Sexual Harassment may be limited. A Respondent is entitled to know the name of the accuser and information regarding the nature of the allegations in order to defend against the allegations, and is free to disclose information about the allegations, including the Complainant's identity thus, the University may not be able both to adjudicate the Formal Complaint and to maintain confidentiality during that process.

Even when the University determines to abide by a request for confidentiality (and even if such request limits the University's ability to take disciplinary action against the Respondent):

- 1) To the extent practicable and appropriate, the University will take prompt action to limit the effects of the alleged Sexual Harassment and to prevent its recurrence. For instance, the University may take appropriate interim

measures to ensure an individual's safety even in the absence of a University proceeding. The University may also consider broader remedial action (such as increased monitoring, supervision, or security at locations where reported sexual violence occurred, increased education and prevention efforts, including to targeted population groups, and climate assessments).

- 2)** Information regarding the alleged Sexual Harassment may be included in University records, as necessary and appropriate.
- 3)** University personnel will (and are obligated to) handle information regarding alleged Sexual Harassment in accordance with applicable local, state, and federal laws. For example:
  - (A)** Under conditions of potential imminent harm to the community, the University may be required by law to inform the community of the occurrence of the alleged incident(s) of Sexual Harassment.
  - (B)** Information regarding the alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.
  - (C)** The University may be required by applicable law to inform applicable law enforcement agencies of the occurrence of the alleged incident(s) of Sexual Harassment.

Please note that the University cannot control disclosure by students or third parties.

## ARTICLE IV. HOW AND WHERE TO REPORT ALLEGED SEXUAL HARASSMENT

*For information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see Exhibit A attached to this Policy.*

Because Sexual Harassment may in some instances constitute both a violation of University policy and criminal activity, and because the University grievance process is not a substitute for instituting legal action, **the University encourages individuals to Report alleged Sexual Harassment promptly to University officials and to law enforcement authorities, where appropriate.**

Individuals have the option not to Report alleged Sexual Harassment to campus officials or to law enforcement authorities. The University respects the individual's decision in regards to submitting a Report; however, subject to the Confidentiality provisions outlined in Article III of this Policy, if information about Sexual Harassment is reported or comes to the attention of the University, the University (1) will start an inquiry even in the absence of a Formal Complaint and/or (2) may notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

### **Section 4.01 Reporting to Local Law Enforcement.**

**Individuals may Report directly to local law enforcement agencies by dialing 911.**

Individuals may contact any of the following for assistance in submitting a Report to local law enforcement:

- (a) the Office of Campus Safety, 24 hours a day, seven days a week (available by phone at 704.233.8999 and located in the Campus Safety House on 204 North Main Street).
- (b) the University's Title IX Coordinator, Dr. Nancy Randall from 8:30am-5pm Monday through Friday (available by phone at 704.233.8065 or by email at nrandall@wingate.edu and located in the Efir Building), or
- (c) The Wingate Police Department, located at 4114 Highway 74E, Wingate, NC or at 704.233.1697.

Individuals may inform law enforcement authorities about Sexual Harassment and discuss the matter with a law enforcement officer without making a Report or Formal Complaint. Individuals who make a criminal complaint may also choose to submit a Report and/or pursue a Formal Complaint simultaneously.

### **Section 4.02 Reporting to the University.**

If you wish for information regarding Sexual Harassment to be investigated and addressed pursuant to this Policy, you must Report such information to the **Title IX Coordinator** or to a **Responsible Employee**. *See the definition of "Responsible Employee" in Exhibit B for a list of the University's Responsible Employees.* These individuals are REQUIRED to investigate and address allegations of Sexual Harassment (or relay the allegations to the Title IX Coordinator (or, if the Title IX Coordinator is implicated in the allegations, to a Deputy Title IX Coordinator) to do so). Individuals who are not

Responsible Employees are not subject to the same requirement (and in some instances, such as is generally the case with Strictly Confidential Resources, are prohibited from reporting alleged Sexual Harassment to others absent an express directive from the alleged victim to do so).

Individuals may Report information regarding Sexual Harassment on their own behalf (i.e., as alleged victims) OR on behalf of the alleged victim (i.e., as Third-party Reporters).

If the Title IX Coordinator is the Respondent or is otherwise at issue in a Formal Complaint, or if an individual is otherwise uncomfortable making a Formal Complaint to the Title IX Coordinator, he or she may report alleged Sexual Harassment to any other Responsible Employee.

No member of the University community may discourage an individual from reporting alleged incidents of Sexual Harassment. With the exception of certain research-based disclosures described in the following paragraph, a Responsible Employee with any knowledge (including firsthand observation) about a known or suspected incident of Sexual Harassment must Report the incident to the Title IX Coordinator (or, if the Title IX Coordinator is implicated in the allegations, a Deputy Title IX Coordinator). No employee is authorized to investigate or resolve Formal Complaints without the approval and involvement of the Title IX Coordinator or an Assigned Deputy Title IX Coordinator.

A Report of incidents of alleged Sexual Harassment made by an individual during such individual's participation as a subject in a University Review Board–approved human subjects research protocol (an “Approved Research Project”) will not be considered notice to the University of Sexual Harassment for purposes of triggering its obligation to investigate the incident at issue. (More specifically, a Responsible Employee whose knowledge of a known or suspected incident of Sexual Harassment is gained as a result of conducting an Approved Research Protocol is not required to report the incident to the Title IX Coordinator.) University Review Boards may, in appropriate cases, require researchers to provide information to all subjects of a study about the subjects’ Title IX rights and about available University and community resources and support services with regard to Sexual Harassment.

Individuals may also file **anonymous Reports** by reporting the Sexual Harassment through a reporting link located on the University Title IX website (<https://www.wingate.edu/title-ix>) Individuals who choose to file anonymous Reports are advised that it may be very difficult for the University to follow up or take action on anonymous Reports, where corroborating information is limited. Anonymous Reports may be used for Clery Act data collection purposes.

Upon receiving any Report of Sexual Harassment, whether written, verbal, or otherwise, the Title IX Coordinator shall contact the victim(s) (if his or her identity can be ascertained from the Report) and explain to the victim(s) the options for filing a Formal Complaint (if one has not already been filed) and the availability of supportive measures pursuant to Article VI.

***Reporting to the University:***  
**WHAT HAPPENS AFTER I REPORT?**

<p>If you Reported directly to the <b>Title IX Coordinator</b> or filed a <b>Formal Complaint</b>:</p>	<p><b>If you have made a Report, the Title IX Coordinator will contact you (or the victim(s), if you are reporting on behalf of a third party) to discuss the options for confidentiality, filing a Formal Complaint, and for supportive measures. If you have made a Formal Complaint, the Title IX Coordinator, after determining whether the Formal Complaint alleges facts that, if true, could rise to the level of Sexual Harassment, initiates the investigation and resolution process (unless you request confidentiality pursuant to Section 3.02(b), in which case the information will be held in confidence unless the Title IX Coordinator determines that, due to the University’s commitment to provide a reasonably safe and non-discriminatory environment, the request cannot be granted).</b></p>
<p>If you reported to a <b>Responsible Employee</b> (including a <b>Deputy Title IX Coordinator</b>):</p> <p><i>(See the definition of “Responsible Employee” in Exhibit B for a list of the University’s Responsible Employees)</i></p>	<p><b>The Responsible Employee will forward the information to the Title IX Coordinator, who will contact you (or the victim(s), if you are reporting on behalf of a third party) to discuss the options for confidentiality, filing a Formal Complaint and for supportive measures.</b></p>
<p>If you confided in the <b>Counseling Center, the Minister to Students, or Student Health Services</b>:</p>	<p><b>The information you provided will remain strictly confidential</b> and will not* be reported to the Title IX Coordinator (or anyone else) for investigation and resolution.</p> <p><i>*Remember that in unusual circumstances the information you share with the Counseling Center, Minister to Students, or Student Health Center (such as situations involving imminent harm to a member of the community or situations involving abuse of a minor) may be disclosed without your consent.</i></p>
<p>If you reported to someone else (i.e., <b>someone other than the Title IX Coordinator, a Responsible Employee, the Counseling Center,</b></p>	<p><b>The individual may or may not report details regarding the information you provided to the Title IX Coordinator.</b> This is because the individual to whom you reported is not <i>obligated</i> to relay allegations of Sexual Harassment to the Title IX Coordinator (and, conversely, is likely not <i>obligated</i> to maintain the information you shared in confidence).</p> <p><i>For this reason, if you would like the information you share to be addressed by the University, direct it to a Title IX Coordinator or a Responsible Employee.</i></p>

**or Student Health Services):**

*Conversely, if you would like the information you share to be maintained in strict confidence, direct it to the Counseling Center or Student Health Services.*



## **ARTICLE V. POLICIES APPLICABLE TO ALL FORMAL COMPLAINTS OF SEXUAL HARASSMENT**

### **Section 5.01 Oversight.**

The Assigned Deputy Title IX Coordinator will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of Formal Complaints filed with or disclosed to the University.

### **Section 5.02 Conflicts.**

If any employee designated by this Policy to participate in the investigation or resolution of a Formal Complaint is the Respondent, then the Title IX Coordinator will appoint another University administrator to perform such person's duties under this Policy. (If the Title IX Coordinator is the Respondent, then the President of the University or President's designee will appoint another University employee to perform his or her duties under this Policy.)

### **Section 5.03 Advisors of Choice.**

Both the Complainant and the Respondent may have one advisor present to support and assist them throughout the Formal Complaint process (including, but not limited to, during related prehearing meetings, during investigative interviews, and during the hearing or proceeding (for purposes of this section, "meetings")); however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. The Complainant and the Respondent are not limited in their choice of an advisor. Advisors may be friends, victim advocates, lawyers, or others. The Complainant and the Respondent may consult with their respective advisors during meetings, provided that such consultation is not disruptive.

For the avoidance of doubt, the University may seek advice from the University's in-house or outside counsel at any time (including during any hearing or proceeding).

### **Section 5.04 Timing.**

The University will make every reasonable effort to ensure that the investigation and resolution of a Formal Complaint, including any appeals, occurs in as timely and efficient a manner as possible and within one calendar year of receipt of the Formal Complaint.

Any party may request an extension of any deadline by providing the Assigned Deputy Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Assigned Deputy Title IX Coordinator may modify any deadlines contained in this Policy as necessary and for good cause; in such case, the Assigned Deputy Title IX Coordinator will provide the Complainant and the Respondent with written notice of the modification and the reason therefore.

### **Section 5.05 Documentation.**

The University will retain documentation (including but not limited to the written Formal Complaint, notifications, the Investigative Report, written findings of fact, petitions for appeal, notifications of decisions (including the Final Outcome Letter) and any written communication between the parties),

for at least seven years. Documentation pertaining to expulsions or degree revocations will be retained indefinitely or in accordance with University policy.

**Section 5.06 Confidentiality and Disclosure.**

In order to comply with FERPA, Title IX, and other applicable laws, and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the resolution processes are not open to the general public. Accordingly, documents prepared in anticipation of the informal and/or the formal resolution processes (including the Formal Complaint, the Investigative Report, and notices and communications to or from the Complainant or the Respondent); documents, statements, or other information introduced in the interviews, meetings, and proceedings; and the Final Outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

For the avoidance of doubt, if it is determined that the Respondent committed Sexual Assault, University policy does not prohibit the further disclosure of the Final Outcome Letter by either the Complainant or the Respondent.

## **ARTICLE VI. THE PROCESS APPLICABLE TO ALL FORMAL COMPLAINTS OF SEXUAL MISCONDUCT**

### **Section 6.01 STEP 1: A Report of Sexual Misconduct Becomes a Formal Complaint.**

A Formal Complaint may be initiated in one of the following ways:

- (a)** An alleged victim or third party may submit a Report of alleged Sexual Harassment through a form located on the University Title IX website ([www.wingate.edu/title-ix](http://www.wingate.edu/title-ix)), in a form provided by the Title IX Coordinator, or by submitting a written statement in his or her own words providing sufficient information for the University to investigate the allegations contained therein (including but not limited to the name of the alleged victim, the name of the alleged perpetrator, and the date, location, and nature of the alleged Sexual Harassment). A Report is not a Formal Complaint but may become a Formal Complaint if the alleged victim, a third party, or the Title IX Coordinator submit the Formal Complaint form (Exhibit C in this Sexual Harassment Policy).
- (b)** An alleged victim may meet in person with the Title IX Coordinator to report alleged Sexual Harassment. In such a situation, the Title IX Coordinator will ask the alleged victim to complete a Formal Complaint form provided by the University.
- (c)** The University may determine, based on information of which it becomes aware, that it is necessary and/or appropriate for it to investigate the information available to it. For avoidance of doubt, the Title IX Coordinator may initiate a Formal Complaint on behalf of the University if it is determined by a totality of the circumstances that it is in the University's best interests to initiate a Formal Complaint.

An alleged victim will be referred to as a "Complainant" and an alleged perpetrator will be referred to as a "Respondent." As a threshold step, the Title IX Coordinator shall review the Formal Complaint to determine whether it alleges facts that, if true, could rise to the level of Sexual Harassment. If the Formal Complaint does not allege facts that, if true, could rise to the level of Sexual Harassment, the Title IX Coordinator may dismiss the Formal Complaint. If the Formal Complaint alleges facts that, if true, could rise to the level of Sexual Harassment, the Formal Complaint shall be initiated.

### **Section 6.02 STEP 2: Notice of Allegations.**

- (a)** Following the initiation of a Formal Complaint, the Title IX Coordinator will provide formal written notice to all known parties at least seven (7) days in advance of any initial interview. The written notice will contain the following information:
  - (i)** Details of the allegations of Sexual Harassment, including the identities of the parties involved, if known, the date and location of the incident, if known, and the conduct allegedly constituting Sexual Harassment;
  - (ii)** A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will be made at the conclusion of the grievance process;

- (iii) An explanation of the University's formal grievance process as established by this Policy, including a summary of possible sanctions in the event the Respondent is found responsible for the alleged Sexual Harassment;
  - (iv) An explanation of the University's informal resolution process as established by this Policy;
  - (v) A statement that the parties may select an advisor of their choice, and that the advisor may be an attorney;
  - (vi) A statement that the parties' chosen advisors may inspect and review evidence gathered during the Investigation directly related to the allegations raised in the Formal Complaint; and
  - (vii) A statement that knowingly making false statements or knowingly submitting false information during the grievance process is a violation of the University Honor Code.
- (b) If, during the course of the Investigation, the University decides to investigate allegations of Sexual Harassment that were not included in the initial written notice, the University will provide notice of the additional allegations to all known parties.

### **Section 6.03 STEP 3: Evaluation of Interim Supportive Measures and Removal**

Following the initiation of a Formal Complaint (and at any point during the complaint, investigation, or disciplinary processes, if the Assigned Deputy Title IX Coordinator deems it necessary for the protection of any member of the University community), the Assigned Deputy Title IX Coordinator will determine which, if any, of the following measures and/or actions should be taken:

- (a) **Interim Supportive Measures.** When warranted to restore or preserve a party's equal access to education, protect the safety of all parties as well as the University's educational environment, or to deter Sexual Harassment, the Assigned Deputy Title IX Coordinator may implement one or more interim supportive measures, if appropriate and/or reasonably available, including but not limited to the following:
- (i) Issuing mutual no-contact orders to prevent any contact between or among the Complainant and the Respondent;
  - (ii) Providing the Complainant or Respondent with an escort to ensure that he or she can move safely between classes, work, and/or activities;
  - (iii) Changing a Complainant's or a Respondent's on-campus housing, if any, to a different on-campus location and providing assistance from University personnel in completing the relocation;
  - (iv) Changing a Complainant's or a Respondent's work arrangements or schedules;
  - (v) Changing academic schedules (such as moving the Complainant or the Respondent from one class section to another);
  - (vi) Arranging to dissolve a campus housing contract and offering a pro-rated refund;

- (vii) Rescheduling class work, assignments, and examinations;
- (viii) Arranging for the Complainant or Respondent to withdraw from or take an incomplete in class without penalty;
- (ix) Providing academic support services;
- (x) Providing alternative course completion options;
- (xi) Permitting a temporary withdrawal from the University; and
- (xii) Providing counseling services.

The Title IX Coordinator or Assigned Deputy Title IX Coordinator, as appropriate, shall consider the totality of the circumstances when evaluating the implementation of supportive measures, including, without limitation, the wishes of the Complainant and the potential hardship on the Respondent caused by any proposed measures. Interim supportive measure must be non-disciplinary, non-punitive, and not unreasonably burdensome to the other party. The University may continue providing any interim supportive measure even in the event a Respondent is found not responsible for Sexual Harassment.

**(b) Interim Removal.**

- (i) **Student Respondents.** When a student Respondent's alleged actions or behaviors immediately threaten the physical health or safety of the Complainant, other students, and/or the University community, the Assigned Deputy Title IX Coordinator may remove a Respondent from its educational program, campus housing, and/or any other University activity prior to the adjudication of the Formal Complaint pursuant to this Policy.

The Assigned Deputy Title IX Coordinator will notify the Respondent of the proposed interim measure(s) in writing. These actions may be appealed to the Provost or his or her designee. The decision of the Provost or designee regarding the imposition of these actions will be final.

- (ii) **Employee Respondents.** When an employee Respondent's alleged actions or behaviors immediately threaten the health and safety of the Complainant, students, other employees, and/or the University community, the Assigned Deputy Title IX Coordinator may request that the individual authorized to make personnel decisions regarding the employee at issue take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's presence or movement on campus. In addition, when an employee Respondent's alleged actions or behaviors affect the safety, health, or general welfare of the Complainant, students, other employees, and/or the University community, the Assigned Deputy Title IX Coordinator may request that the individual authorized to make personnel decisions regarding the employee at issue temporarily adjust the job duties of or place on administrative leave such Respondent.

The Assigned Deputy Title IX Coordinator will notify the Respondent of the proposed interim measure(s) in writing (to the extent necessary to implement those measures).

These actions may be appealed to the Vice President of Human Resources or designee. The decision of the Vice President of Human Resources or designee regarding the imposition of these actions will be final.

#### **Section 6.04 STEP 4: Initial Meetings with the Assigned Deputy Title IX Coordinator.**

- (a) **Complainant's Initial Meeting with the Assigned Deputy Title IX Coordinator.** As soon as is practicable, the Assigned Deputy Title IX Coordinator will contact the Complainant to schedule an initial meeting to discuss the Formal Complaint and avenues for its resolution. (If the person who reported the alleged Sexual Harassment is a Third-party Reporter, the Assigned Deputy Title IX Coordinator will attempt to meet with him or her as soon as possible to gather information.) During this initial meeting the Deputy Title IX Coordinator will explain the availability of supportive measures and will document the reasons why supportive measures are or are not provided.

Following the meeting with the Complainant, the Assigned Deputy Title IX Coordinator will, if applicable, promptly determine the interim supportive measures to be provided to the Complainant during the pendency of the investigative and resolution processes. Such determination will promptly be communicated to the Complainant (no later than it is communicated to the Respondent) and, to the extent that it affects him or her, the Respondent.

The Complainant may, within seven calendar days of the interview with the Assigned Deputy Title IX Coordinator, submit a written statement of position regarding the alleged Sexual Harassment to the Assigned Deputy Title IX Coordinator.

- (b) **Respondent's Initial Meeting with the Assigned Deputy Title IX Coordinator.** As soon as is reasonably practicable after the Assigned Deputy Title IX Coordinator's initial meeting with the Complainant, the Assigned Deputy Title IX Coordinator will schedule an initial meeting with the Respondent to discuss the Formal Complaint, to inform the Respondent of any interim measures already determined and being provided to the Complainant that directly affect the Respondent, and to discuss the process for resolving the Formal Complaint. During this initial meeting the Assigned Deputy Title IX Coordinator will explain the availability of supportive measures and will document the reasons why supportive measures are or are not provided.

Following the interview with the Respondent, the Assigned Deputy Title IX Coordinator will, if applicable, promptly determine the interim measures to be provided to the Respondent during the pendency of the investigative and resolution processes (such as those listed in Section 6.03(a)). Such determination will promptly be communicated to the Respondent (no later than it is communicated to the Complainant) and, to the extent that it affects him or her, the Complainant.

The Respondent may, within seven calendar days of the interview with the Assigned Deputy Title IX Coordinator, submit a written statement of position regarding the alleged Sexual Harassment to the Assigned Deputy Title IX Coordinator.

#### **Section 6.05 STEP 5: The Investigation.**

- (a) **Effect of Corollary Criminal Investigation.** The University’s investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, the University may take interim measures when necessary to protect the Complainant and/or the University community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Harassment, for the purposes of this Policy, has occurred.

- (b) **The Assigned Deputy Title IX Coordinator’s Initial Determination.** The Assigned Deputy Title IX Coordinator will promptly appoint one or more Investigators, will share their names and contact information with the Complainant and the Respondent, and will forward the Formal Complaint to the Investigators *unless* it is clear on its face and/or based on the Assigned Deputy Assigned Deputy Title IX Coordinator’s initial meetings with the parties that *no* reasonable grounds exist for believing that the conduct at issue constitutes Sexual Harassment.

Within three business days of such appointment, the Investigators, the Complainant, or the Respondent may identify to the Assigned Deputy Title IX Coordinator in writing alleged conflicts of interest posed by assigning such Investigators to the matter. The Assigned Deputy Title IX Coordinator will carefully consider such statements and will assign different individuals as Investigators if it is determined that a material conflict of interest exists.

In the event that the Formal Complaint was made by a Third-party Reporter, the Assigned Deputy Title IX Coordinator will also consider the following factors in determining whether it is reasonable to assign Investigators to investigate the Formal Complaint:

- (i) The source and nature of the information,
- (ii) The seriousness of the alleged incident,
- (iii) The specificity of the information,
- (iv) The objectivity and credibility of the source of the information,
- (v) Whether the individuals allegedly subjected to the Sexual Harassment can be identified, and
- (vi) Whether those individuals wish to pursue the matter.

In the event that the Title IX Coordinator or Assigned Deputy Title IX Coordinator determines that an investigation of the Formal Complaint is not warranted, he or she will close the Formal Complaint, document the closure, and promptly provide written notification of the closure and the rationale for the closure to the Complainant and the Respondent.

Within 14 calendar days from the date of the notice of closure, the Complainant and/or the Respondent may appeal the decision in writing to the Appeals Board. The Title IX Coordinator will appoint the members of the “Appeals Board,” to include three members, of which one will be designated as the Chair. The Appeals Board may not include the Title IX Coordinator, any Deputy Title IX Coordinators involved in the matter on appeal, any members



of the Hearing Board, or the investigator(s) that investigated the matter before the Appeals Board. The Title IX Coordinator shall provide a copy of the appeal to the Appeals Board upon receipt. The Title IX Coordinator will promptly inform the other party of the appeal.

Following receipt of the appeal, the Appeals Board will make a determination as to whether the Formal Complaint warrants further investigation or the case should be closed and whether any additional or different remedial action is necessary.

The Appeals Board shall consider the appeal based on any of the following bases:

- 1) A procedural irregularity that may have affected the outcome of the matter;
- 2) New evidence that was not reasonably available at the time the determination regarding closure was made that could affect the outcome of the matter; or
- 3) The Assigned Deputy Title IX Coordinator or the investigator(s), or the Hearing Board members had a conflict of interest or bias for or against complainants or respondents generally, or the individual Complainant or Respondent involved in the matter, that could have affected the outcome of the matter.

The Complainant and the Respondent will be notified concurrently of the decision. The decision of the Appeals Board is final.

**(c) The Investigators' Activities.** Upon receipt of the Formal Complaint, the Investigators will promptly begin their investigation, taking such steps as:

- (i)** Conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form;
- (ii)** Visiting, inspecting, and taking or reviewing photographs at relevant sites where applicable; and
- (iii)** Collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies) where applicable.

Throughout the investigation, the Investigators will remain neutral.

**(d) Parties' Ability to Gather and Submit Relevant Evidence.** The University will not restrict the ability of the Complainant and Respondent to discuss the allegations made in the Formal Complaint, or to gather or present relevant evidence. The Complainant and Respondent may submit inculpatory and exculpatory evidence to the Investigators, including from fact and expert witnesses.

**(e) Prohibition on Submission of Privileged Information and Medical Records.** The Investigator will not allow submission of or rely on questions or evidence that constitute, or seek disclosure of, information protected by a legally recognized privilege, unless the holder of such privilege has voluntarily waived the privileged. In addition, the Investigator cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by



a physician, psychiatrist, psychologist, and which are made and maintained in connection with the provision of treatment to the party, unless that party provides voluntary, written consent to do so.

- (f) **Parties' Ability to Inspect Evidence.** Prior to the creation of a written investigative report, the Investigators will send the Complainant and Respondent and their chosen advisors, if any, any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. This includes evidence that the University does not intend to rely on in reaching a determination regarding responsibility, as well as inculpatory or exculpatory evidence. The Complainant and Respondent shall have ten (10) days to submit a written response to the evidence. The Investigators will consider any written response received prior to completing the investigative report.
- (g) **The Investigator's Report.** The Investigators will complete a written investigative report that includes items such as the written Formal Complaint, any written statements of position, summaries of all interviews conducted, photographs, descriptions of relevant evidence, and a detailed report of the events in question (the "Investigative Report"). The Investigators will share the Investigative Report with the Assigned Deputy Title IX Coordinator, who will make it (concurrently) available to the Complainant and to the Respondent and their chosen advisor, if any, to review. The Investigative Report will be made available to the parties and their advisors at least ten (10) days prior to a hearing or other time of determination of responsibility.

All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence (even after the resolution of the Formal Complaint); the Investigative Report may only be disclosed as is contemplated by this Policy.

- (h) **The Assigned Deputy Title IX Coordinator's Evaluation of the Investigative Report.**

The Assigned Deputy Title IX Coordinator will evaluate the Investigative Report and will direct that the Formal Complaint will proceed to adjudication according to the procedures set forth in Article VII (or Article VIII) below *unless* it is clear from the Investigative Report that no reasonable grounds exist for believing that the conduct at issue constitutes Sexual Harassment.

The Assigned Deputy Title IX Coordinator will specify which allegations and, if applicable, which other, related alleged misconduct, will go forward for resolution under this Policy.

If the Assigned Deputy Title IX Coordinator finds that it is clear from the Investigative Report that no reasonable grounds exist to believe that the conduct at issue constitutes Sexual Harassment, then the Assigned Deputy Title IX Coordinator will close the Formal Complaint, document the closure, and promptly provide written notification of the closure and the rationale for the closure to the Complainant and the Respondent.

The Complainant and/or the Respondent may appeal the Assigned Deputy Title IX Coordinator's decision in writing to an Appeals Board (providing a copy of the appeal to the Assigned Deputy Title IX Coordinator within fourteen (14) days of receipt of the notice). The Assigned Deputy Title IX Coordinator will promptly inform the other parties of the appeal. The Appeals Board will promptly make a determination as to whether the Formal Complaint

should proceed to hearing or the closure should stand. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of the decision of the Appeals Board.

**STEP 6: Determination of Formal Versus Informal Resolution.**

At any time before the Hearing Board provides notice of the hearing in accordance with Section 7.02(b)(ii), the Complainant may elect to resolve his or her Formal Complaint through the informal resolution process in accordance with Article VIII of this Policy, provided that the Respondent agrees to such resolution in writing. However, informal resolution will not be available if the Complainant is a student and the Respondent is a faculty or staff member. A Formal Complaint that is not closed pursuant to the Assigned Deputy Title IX Coordinator's evaluation of the Investigative Report will proceed to formal resolution in accordance with Article VII of this Policy.

## ARTICLE VII. FORMAL RESOLUTION

### Section 7.01 Respondent's Acknowledgement of Responsibility.

At any time prior to the date of the hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Harassment. In such a situation, the Assigned Deputy Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the Formal Complaint will be resolved without a hearing and without any further rights of appeal by any party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Board will convene for the exclusive purpose of determining a sanction in accordance with Section 7.02(c)(ii) of this Policy. The sanction(s) determination may be appealed pursuant to Section 7.03(c) of this Policy.

### Section 7.02 The Formal Resolution Process.

In the case of a formal resolution, a Hearing Board will conduct a live hearing in which the Complainant and the Respondent will be entitled to present evidence. At the conclusion of the hearing, the Hearing Board will make a determination regarding the responsibility of the Respondent regarding the allegations made against him or her. If the Hearing Board concludes that the Respondent is responsible, then the Hearing Board will determine the sanctions that the University will impose against the Respondent.

#### (a) The Empaneling of the Hearing Board.

- (i) **The Hearing Board.** The Assigned Deputy Title IX Coordinator will appoint the members of the "Hearing Board," to include three members, of which one will be designated as the Chair. The Hearing Board may not consist of the Title IX Coordinator, any Deputy Title IX Coordinators, or the investigator(s) that investigated the matter before the Hearing Board. The Assigned Deputy Title IX Coordinator will share the Formal Complaint and the Investigative Report (redacted, if applicable, pursuant to Section 6.05(f)) with the Hearing Board and, if only a portion of the misconduct alleged in the Formal Complaint justifies continuing to the hearing process, the Assigned Deputy Title IX Coordinator will specify which part(s) of the alleged misconduct will be the subject of the hearing.
- (ii) **Notice of the Composition of the Hearing Board.** Promptly after the appointment of the members of the Hearing Board, the Assigned Deputy Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the names of the individuals selected to serve on and chair the Hearing Board. If only a portion of the alleged misconduct justifies continuing to the hearing process, the Assigned Deputy Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearing.

The parties may challenge the participation of any member of the Hearing Board by submitting a written objection to the Assigned Deputy Title IX Coordinator within three days of receipt of the notice of the composition of the Hearing Board. Such objection must state the specific reason(s) for the objection. The Assigned Deputy Title IX Coordinator will evaluate the objection and determine whether to alter the

composition of the Hearing Board. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Board. Any changes in the composition of the Hearing Board will be provided in writing to both parties prior to the date of the hearing.

**(b) Hearing Policies and Procedures.**

- (i) Submission of Witness and Exhibit Lists by Complainant and Respondent.** Within five days of receipt of the notice of composition of the Hearing Board, the Complainant and the Respondent shall provide the Chair with a list of witnesses, if any, that they intend to call at the hearing, a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute, and a brief description of any documentary evidence that they intend to present at the hearing.
- (ii) Notice of the Hearing(s).** Not less than five days but not more than ten days after delivery of notice of the composition of the Hearing Board to the parties, the Hearing Board will provide a separate notice to each of the Complainant, the Respondent, and any witnesses identified by the parties, requesting such individual(s) to appear before the Hearing Board. The notice should set forth, as applicable, the date, time, and location of the hearing. In its notices to the Complainant and the Respondent, the Hearing Board will provide the names of the witnesses intended to be called at the hearing by the parties, and the evidence identified by the parties.
- (iii) Failure to Appear.** If the Complainant and/or the Respondent fails to appear before the Hearing Board if requested to do so, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Board will proceed to determine the resolution of the Formal Complaint.
- (iv) No Contact Prior to the Hearing.** The Complainant and the Respondent may not contact each other outside of the hearing, even to discuss the hearing.
- (v) Support Advisors of Choice.** As provided in Section 5.03, both the Complainant and the Respondent may select an advisor to assist them during the hearing. If either party has not selected an advisor for the hearing, the University will appoint them a trained advisor for the hearing.
- (vi) Presentation of Evidence.** The Complainant and the Respondent will have an opportunity to present witnesses and evidence to the Hearing Board. The Complainant and the Respondent, through their advisors, will also have an opportunity to cross-examine the other party's witnesses, including the other party. The witnesses, including the parties, may choose not to testify, or not to face cross-examination. However, the Hearing Board must not rely on a non-cross-examined statement when making its determination of responsibility; provided, however, that the Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. Also, the Hearing Board may not base a responsibility determination solely on the absence of a witness during a hearing or the refusal of a party to face cross-examination.
- (vii) Evidentiary Matters.**

- 1) **Relevancy.** The parties may object to the relevancy of a question directed at a witness by the other party. In this circumstance, the Chair must determine if the question is relevant before the witness answers the question.
- 2) **Complainant's Prior Sexual Conduct or Predisposition.** Evidence of the Complainant's sexual history or predisposition will not be permitted at the hearing, with the following exceptions:
  - (A) evidence about the Complainant's prior sexual behavior may be offered to prove that someone other than the respondent committed the conduct alleged by the complainant;
  - (B) evidence about specific incidents within the Complainant's and Respondent's sexual history may be offered to prove that the sexual activity at issue in the hearing was consensual.

**(viii) Technology.**

- 1) **Closed-Circuit Technology.** If the Chair, in consultation with the Assigned Deputy Title IX Coordinator, deems it appropriate, the Chair will arrange for the parties to attend the hearing from different locations, and to allow both parties and the Hearing Board to hear and see live testimony via closed-circuit technology.
- 2) **Recording.** The Chair will arrange for the audio and/or visual recording of the hearing. This recording will be the property of the University, but each party is entitled to inspect and review it after the hearing. The Appeals Board may use the recording as part of the appeal process.

**(c) Responsibility Determinations and Sanctions.**

**(i) The Decision of the Hearing Board Regarding Responsibility.**

- 1) **Responsibility Determination.** Following the conclusion of the hearing, the Hearing Board will confer and, by majority vote, determine whether the evidence (including the information provided in the Investigative Report, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not<sup>1</sup> that the Respondent committed Sexual Harassment.
- 2) **Written Decision.** Within ten calendar days following the conclusion of the hearing, the Hearing Board will prepare a written decision that explains its responsibility finding. The Hearing Board will provide this decision

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<sup>1</sup> In other words, the standard of proof for this adjudication will be the "preponderance of the evidence" standard.

concurrently to the parties and the Assigned Deputy Title IX Coordinator. This decision will include:

- (A) Identification of the allegations potentially constituting Sexual Harassment that the Hearing Board adjudicated;
  - (B) A description of the procedural steps the University took, from the receipt of the Formal Complaint through the responsibility determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - (C) Findings of fact supporting the determination;
  - (D) Conclusions regarding the application of this Policy to the facts. If the Respondent is found Responsible, the Hearing Board will specify the specific type(s) of Sexual Harassment for which the Respondent is found Responsible (for example, Sexual Assault, Stalking, etc.).
  - (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's educational programs and activities will be provided by the University to the Complainant; and
  - (F) The University's procedures and permissible bases for the parties to appeal.
- (ii) **The Decision of the Hearing Panel Regarding Sanctions.** If the Hearing Board renders a finding of "Responsible," it will determine appropriate sanctions to be imposed on the Respondent.
- (1) **Generally.** Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for Sexual Harassment, or both. Sanctions include, but are not limited to, the following: withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, expulsion or suspension from campus housing, mandated counseling, parental notification and/or educational sanctions (such as community service, reflection paper(s), and/or fines) deemed appropriate by the Hearing Board. The Hearing Board will determine sanctions by giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation.
  - (2) **Implementation of Sanctions.** Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Section 7.03. However, if it is advisable in order to protect the welfare of the Complainant or the University

community, the Hearing Board may recommend and/or the Assigned Deputy Title IX Coordinator may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

**(iii) Corrective Action and Final Accommodations.**

- 1) The Assigned Deputy Title IX Coordinator will be responsible for ensuring that the University promptly implements the sanctions imposed by the Hearing Board.
- 2) In addition to any sanctions imposed on the Respondent, the Assigned Deputy Title IX Coordinator will also determine if any additional accommodations should be provided to the Complainant. If so, the Assigned Deputy Title IX Coordinator will communicate such decision to the Complainant, and, to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to, those listed in Section 6.03(a) of this Policy.
- 3) The Assigned Deputy Title IX Coordinator will also take steps, where necessary, to prevent the further harassment of or Retaliation against the Complainant or third parties, by, for example, informing them about how to report subsequent problems, following up with them to ensure that there are no subsequent problems, providing trainings for the University community, and providing Sexual Harassment or other counseling. The Assigned Deputy Title IX Coordinator will also, where appropriate, take steps to prevent the harassment of the Respondent.
- 4) The Assigned Deputy Title IX Coordinator will take prompt corrective action if the Complainant experiences Retaliation or is subjected to further Sexual Harassment or if the original sanctions imposed on the Respondent are ineffective to protect the safety and wellbeing of the Complainant or other members of the University community.

**Section 7.03 Appeals.**

- (a) **Appeal Statement.** The Complainant and the Respondent may appeal the decision of the Hearing Board and/or the sanction imposed on the Respondent within 14 calendar days from the date the Hearing Board issues the written decision. Appeals of the decision of the Hearing Board must be made in writing to the Assigned Deputy Title IX Coordinator. The party filing the appeal (the “Appellant”) must include an explanation of the reason for the appeal consistent with Section 7.03(c) of this Policy. The decision of the Hearing Board and the sanction imposed on the Respondent may, if desired, be appealed simultaneously. The Assigned Deputy Title IX Coordinator will promptly inform the other party of the filing of the appeal.
- (b) **Appeals of the Decision of the Hearing Board Regarding Responsibility for Sexual Harassment.**
  - (i) **Grounds for Appeal.** The only permissible grounds for an appeal are:



- 1) A procedural irregularity that may have affected the outcome of the matter;
  - 2) New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter; and
  - 3) The Assigned Deputy Title IX Coordinator, the investigator(s), or the Hearing Board members had a conflict of interest or bias for or against complainants or respondents generally, or the individual Complainant or Respondent involved in the matter, that could have affected the outcome of the matter.
- (ii) **Appeals Board Composition.** The Title IX Coordinator will appoint the members of the “Appeals Board,” to include three members, of which one will be designated as the Chair. The Appeals Board may not include the Title IX Coordinator, any Deputy Title IX Coordinators, any members of the Hearing Board, or the investigator(s) that investigated the matter before the Appeals Board. The Assigned Deputy Title IX Coordinator will share the Formal Complaint, the Investigative Report, the written findings of the Hearing Board, and the Appellant’s appeal statement with the Appeals Board.
- (iii) **Appeal Opposition Statement.** The party that has not filed the appeal (the “Appellee”) may file a written statement to the Appeals Board within 10 days of receipt of the Appeal. This statement should explain why the Appellant’s basis for an appeal is improper and/or why the Hearing Board’s decision should stand. The Assigned Deputy Title IX Coordinator will promptly provide the Appellee’s statement to the Appellant.
- (iv) **Appeals Board Decision.** Within twenty days of the receipt of the appeal (or as soon as is reasonably practicable), the Appeals Board will make a determination by majority vote that (a) the decision of the Hearing Board should stand, or (b) the decision of the Hearing Board should be overturned. In either case, the Appeal Board should issue a written explanation of its reasoning in reaching its decision. The Appeals Board should provide its decision concurrently to the Complainant, the Respondent, and the Assigned Deputy Title IX Coordinator.
- (v) **Result of Appeal Decision.** In the event that the Appeals Board determines that the decision of the Hearing Board should be overturned, the Appeals Board will specify the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may or may not include an additional hearing before a different Hearing Board).
- (c) **Appeals of the Decision of the Hearing Board Regarding Sanctions.**
- (i) **Grounds for Appeal.** The sanctions imposed on the Respondent may be appealed by either party on the basis that the severity of the sanction imposed is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.
  - (ii) **Appeals Board Composition.** The Title IX Coordinator will appoint the members of the “Appeals Board,” to include three members, of which one will be designated as the



Chair. The Appeals Board may not include the Title IX Coordinator, any Deputy Title IX Coordinators, any members of the Hearing Board, or the investigator(s) that investigated the matter before the Appeals Board. The Assigned Deputy Title IX Coordinator will share the Formal Complaint, the Investigative Report, the written findings of the Hearing Board, and the written appeal with the Appeals Board.

- (iii) Appeal Opposition Statement.** The Appellee may file a written statement to the Appeals Board within 10 days of receipt of the Appeal. This statement should explain why the Appellant's basis for an appeal is improper and/or why the Hearing Board's decision should stand. The Assigned Deputy Title IX Coordinator will promptly provide the Appellee's statement to the Appellant.
- (iv) Appeals Board Decision.** Within twenty days of the receipt of the appeal (or as soon as is reasonably practicable), the Appeals Board will make a determination by majority vote regarding whether the sanctions issued by the Hearing Board should stand or should be overturned. In the event that the Appeals Board determines that the decision of the Hearing Board should be overturned, the Appeals Board will determine either (1) the final sanctions to be imposed on the Respondent, which will not be subject to further appeal, or (2) that another hearing will be convened before the Hearing Board for the sole purpose of considering sanctions, in which case the final sanctions set by the Hearing Board and approved by the Title IX Coordinator will not be subject to further appeal. The Appeal Board should issue a written explanation of its reasoning in reaching its decision. The Appeals Board should provide its decision concurrently to the Complainant, the Respondent, and the Assigned Deputy Title IX Coordinator.

## **ARTICLE VIII. INFORMAL RESOLUTION**

Informal resolution is only appropriate if (i) a Formal Complaint has been filed; and (ii) both the Complainant and the Respondent agree to such resolution in writing. Formal Complaints alleging Sexual Harassment by a faculty or staff member against a student are not eligible for informal resolution.

Informal resolution may not be selected for less than all of the misconduct alleged in the Complaint (for example, the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but use the informal resolution process for all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the informal resolution process.

The Complainant has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Assigned Deputy Title IX Coordinator may, where appropriate, terminate or decline to initiate informal resolution, and proceed with the formal resolution process instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceedings.

### **Section 8.01 Respondent's Acknowledgement of Responsibility.**

At any time prior to the imposition of sanctions, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Harassment. In such a situation, the Assigned Deputy Title IX Coordinator will, in consultation with the Title IX Coordinator, propose sanction(s) for the Respondent. If both the Complainant and the Respondent agree to such proposed sanction(s), then the Formal Complaint will be resolved without any further rights of appeal by either party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Board will convene for the exclusive purpose of determining sanctions, which determination may be subject to appeal by either party pursuant to Section 7.03 of this Policy. For purposes of this sanction hearing, all of the other provisions of this Policy relating to the imposition of a sanction for Sexual Harassment shall apply.

### **Section 8.02 The Informal Resolution Process.**

- (a) The Presiding Officer.** When the Complainant's Formal Complaint is to be resolved according to the informal resolution process, the Assigned Deputy Title IX Coordinator will oversee the process.
- (b) Notice of Informal Resolution.** The Assigned Deputy Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent, which includes the allegations; the requirements of the informal resolution process; and any consequences resulting from participating in the informal resolution process. The notice will also set forth the date, time, and location of the informal resolution. The parties may consent to informal resolution at any time after a Formal Complaint is filed, but no party is required to consent to informal resolution. If only a portion of the alleged misconduct justifies continuing to resolution, the Assigned Deputy Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the informal resolution process.

Any party may challenge the participation of the Assigned Deputy Title IX Coordinator by submitting a written objection to the Title IX Coordinator within three days of receipt of the notice of the informal resolution process. Such objection must state the specific reason(s) for the objection. Failure to submit a timely and proper objection will constitute a waiver of any right of objection. The Title IX Coordinator will evaluate the objection and determine whether to assign a different Deputy Title IX Coordinator as the presiding officer. Any substitution of the Deputy Title IX Coordinator serving as the presiding officer will be provided in writing to both parties prior to the date of the informal resolution.

- (c) **No Contact Prior to Informal Resolution.** The Complainant and the Respondent may not contact each other outside of the informal resolution process, even to discuss the process.
- (d) **Attendance.** If the parties agree to invoke informal resolution, both the Complainant and the Respondent are expected to attend the informal resolution. If either party fails to appear at the informal resolution, and such party was provided proper notice of the informal resolution as set forth above, then absent extenuating circumstances, the Assigned Deputy Title IX Coordinator may direct that resolution of the Formal Complaint be determined according to the formal resolution process set forth in Article VII or may reschedule the informal resolution.
- (e) **The Informal Resolution.**
  - (i) **The Parties' Rights.** During the informal resolution process, the parties may:
    - 1) engage one another in the presence of, and facilitated by, the Assigned Deputy Title IX Coordinator;
    - 2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the Assigned Deputy Title IX Coordinator); and/or
    - 3) relay their wishes and expectations regarding the future.
  - (ii) **Advisors of Choice.** As provided in Section 5.03, both the Complainant and the Respondent may have an advisor present to support and assist them during the informal resolution process.
  - (iii) **Resolution.** During the informal resolution, the Assigned Deputy Title IX Coordinator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Assigned Deputy Title IX Coordinator and the Title IX Coordinator find the resolution to be appropriate under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the Complainant and the entire University community), the informal disciplinary procedure will be concluded and the Formal Complaint will be closed. Informal resolution may include disciplinary measures.

## **EXHIBIT A**

to the

### **Wingate University Sexual Harassment Policy**

#### **Suggested Actions for Victims of Sexual Assault**

While all types of Sexual Harassment are inappropriate and taken seriously by the University, actions involving Sexual Assault (as defined in [Exhibit B](#)) are particularly concerning. Thus, if you are the victim of Sexual Assault, the University's first priority is to help you take steps to address your safety, medical needs and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or University Formal Complaint.

#### **1. Ensure Your Physical Safety.**

You may seek help from **local law enforcement agencies** or by contacting the **Office of Campus Safety**. The Office of Campus Safety can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Security personnel are on duty at the Campus Safety Office or by phone at 704.233.8999 24 hours a day, seven days a week.

#### **2. Seek Medical Assistance and Treatment.**

Local options for medical care include the **Health Center, and Atrium Health (Union)**. It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Employees at the Health Center or the Office of Campus Safety can help you obtain transportation to Atrium Health (Union) and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided whether to file charges, you may want to have the evidence collection kit completed so that you can better preserve the options of obtaining a

## **Important Contact Information**

### **University Resources**

**Wingate University Title IX Coordinator** is Dr. Nancy Randall, whose office is in the Efirid Building. Contact available at 704.233.8065 or nrandall@wingate.edu.

The **Wingate University Office of Campus Safety** is located and is available by phone at 704.233.8999 or at 204 North Main Street. University Campus Safety Officers are available 24/7.

**Student Health Center** is located in the Holbrook Building and is available by phone at 704.233.8102. The office is staffed from 8am-4pm Monday through Friday during the academic term or by email at health.center@wingate.edu.

The **Office of Human Resources** is located on the Garden Level Floor of the Stegall Administration Building and is available by phone at 704.233.8810. The office is staffed from 8:30am-5pm Monday through Friday or by email at hr@wingate.edu

The **Counseling Center** is located in the Holbrook Building and is available by phone at 704.233.8979. The Center is staffed from 8:30am-5pm Monday through Friday or by email at counseling@wingate.edu.

protective order and/or filing criminal charges at a later date. Atrium Health (Union) can administer evidence collection kits.

In order to best preserve evidence for an evidence collection kit, it is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before the kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

### 3. Obtain Emotional Support

**The Counseling Center** can help student victims sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' University records, and will not be reported to other University personnel.

Employees may contact Human Resources to obtain emotional support and information about the University's Employee Assistance Program at 704.233.8712 or HR@wingate.edu. Employees may also directly call an EAP work-life representative at 704.529.1428 or 800.633.3353.

### 4. Obtain Information/Report Misconduct

You are encouraged to report incidents of Sexual Assault to the University's **Title IX Coordinator** (even if you have filed a report directly with law enforcement). Further information about how to report Sexual Assault is provided in the body of this Sexual Harassment Policy. The Title IX Coordinator can help you access resources (including recommendations for legal counsel, if requested) and can provide you with support and information, including information on the University's procedures for investigating and addressing instances of Sexual Assault.

## Important Contact Information

### Community Resources

#### **Local Law Enforcement:**

**(Wingate Police Department)** can be reached by calling 911 (or, for non-emergency matters, by calling [704.233.1697. The Wingate Police Department is located at 2441 Highway 74E, Wingate, NC, 28174.

#### **Hospital:**

##### **Atrium Health (Union)**

600 Hospital Dr.  
Monroe, NC 28112  
980-993-3100

#### **Union County Resources:**

**Safe Alliance** (Sexual assault and dating and domestic violence support)

980-771-4673/

#### **Turning Point of Monroe** (Sexual Assault Resource Center)

150 Winchester Ave.  
Monroe, NC 28110  
24 hour hotline  
704-283-7770

## **EXHIBIT B**

**to the**

### **WINGATE UNIVERSITY SEXUAL HARASSMENT POLICY**

#### **Definitions**

- (a) Appeals Board.** “Appeals Board” is defined in Section 7.03(a)(ii). All members of the Appeals Board will receive regular professional training in hearing practices and procedures. More specifically, the members of the Appeals Board will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct an impartial and equitable hearing process.
- (b) Assigned Deputy Title IX Coordinator.** The “Assigned Deputy Title IX Coordinator” means the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given Formal Complaint.
- (c) Clery Act.** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.
- (d) Complainant.** A “Complainant” is an alleged victim of Sexual Harassment who files a Formal Complaint or on whose behalf a Formal Complaint is filed.
- (e) Consent.** “Consent” is informed, freely and actively given, and mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from:

- (i)** Silence, passivity, or lack of resistance alone;
- (ii)** A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
- (iii)** Attire;
- (iv)** The buying of dinner or the spending of money on a date; or
- (v)** Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury.

Whether a party used intimidation or coercion to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by:

- (1) Minors, even if the other participant did not know the minor's age.
- (2) Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.
- (3) Persons who are Incapacitated. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Harassment under this Policy.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue and capacity to consent. Neither party should make assumptions about the other's willingness to continue.

- (f) **Dating Violence.** "Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.
- (g) **Day.** A "day" is a business day, unless otherwise specified.
- (h) **Deputy Title IX Coordinator(s).** The University's "Deputy Title IX Coordinators" are:
- (i) Ms. Glenda Bebber, Associate Vice President for Operations, [gbebber@wingate.edu](mailto:gbebber@wingate.edu), Goodman Service Center, 704.233.8742
  - (ii) Ms. Tanisha Bomani, Director of Human Resources, [t.bomani@wingate.edu](mailto:t.bomani@wingate.edu), Stegall Administration Building, 704.233.8712.
  - (iii) Ms. Michelle Caddigan, Deputy Director of Athletics and Senior Woman Administrator, [caddigan@wingate.edu](mailto:caddigan@wingate.edu), 704.233.8174
  - (iv) Dr. Michelle Chaplin, Assistant Dean of Pharmacy, [m.chaplin@wingate.edu](mailto:m.chaplin@wingate.edu), Hendersonville Campus, 828.697.0105 x 602
  - (v) Dr. Charlesa Hann, Interim Dean of Thayer School of Education, [c.hann@wingate.edu](mailto:c.hann@wingate.edu), 704.233.6035
  - (vi) Ms. Jessica Head, Director of Residence Life, [j.head@wingate.edu](mailto:j.head@wingate.edu), Alumni Hall, 704.233.8376



(vii) Dr. Mick Reynolds, Assistant Vice President for Campus Life, [m.reynolds@wingate.edu](mailto:m.reynolds@wingate.edu), Alumni Hall, 704.233.8242

(viii) Dr. April Smith, Assistant Vice President for Community Standards, [a.smith@wingate.edu](mailto:a.smith@wingate.edu), Efir Memorial Library, 704.233.8649

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related Formal Complaints. The Title IX Coordinator may, at his or her discretion, assign a Deputy Title IX Coordinator as the Assigned Deputy Title IX Coordinator in connection with a given Formal Complaint.

The Deputy Title IX Coordinators will receive regular professional training in resolution practices and procedures. More specifically, the Deputy Title IX Coordinators will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct an impartial and equitable resolution process.

- (i) **Domestic Violence.** “Domestic Violence” includes felony or misdemeanor crimes of violence committed by:
  - (i) a current or former spouse of the victim,
  - (ii) a person with whom the victim shares a child in common,
  - (iii) a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner,
  - (iv) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of North Carolina, or
  - (v) any other person against an adult or youth victim who is protected from that person’s acts under state domestic or family violence laws.
- (j) **Education Record.** “Education Record” has the meaning assigned to it under FERPA.
- (k) **FERPA.** The Family Educational Rights and Privacy Act (“FERPA”) is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 § C.F.R. 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.
- (l) **Formal Complaint.** A “Complaint” is an allegation of Sexual Harassment asserted against another party and initiated pursuant to Section 6.01.
- (m) **Hearing Board.** “Hearing Board” is defined in Section 7.02(a)(i). All members of the Hearing Board will receive regular professional training in hearing practices and procedures. More specifically, the members of the Hearing Board will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct an impartial and equitable hearing process.



- (n) **Incapacitated.** “Incapacitated” means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.
- (o) **Investigative Report.** “Investigative Report” is defined in Section 6.05(d).
- (p) **Investigators.** The “Investigators” are neutral fact-finders who are designated by the Assigned Deputy Title IX Coordinator to investigate a Formal Complaint. The Investigators will be trained annually on (1) reasonable and appropriate investigative techniques, (2) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (3) how to conduct an impartial and equitable investigation.
- (q) **Officials with Authority:** An official with authority is a position with authority to institute corrective measures on Wingate University’s behalf, charges the school with actual knowledge and triggers Wingate University’s response obligations. All Officials with Authority are also Responsible Employees. The following individuals are the university’s Officials with Authority:
- (i) Title IX Coordinator and Deputy Title IX Coordinators
  - (ii) President
  - (iii) Provost
  - (iv) Vice Presidents and Vice Provosts
  - (v) Deans
  - (vi) Human Resources Director
  - (vii) General Counsel
  - (viii) Chief of Campus Safety
  - (ix) Athletic Director
  - (x) Professional staff in Housing and Community Standards
- (r) **Personally Identifiable Information.** “Personally Identifiable Information” (as that term is defined by FERPA) includes, but is not limited to:
- (i) a student's name;
  - (ii) the name of a student's parent(s) or other family members;
  - (iii) the address of a student or a student's family;
  - (iv) a personal identifier, such as a student's social security number, student number, or biometric record;

- (v) other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
  - (vi) other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the University community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
  - (vii) information requested by a person whom the University reasonably believes knows the identity of the student to whom the Education Record relates.
- (s) **Rape.** "Rape" is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.
  - (t) **Respondent.** A "Respondent" is an individual who has been accused in a Formal Complaint of committing Sexual Harassment.
  - (u) **Report.** "Report" means information concerning potential Sexual Harassment that has been reported to the University by one or more victims or third parties.
  - (v) **Responsible Employee.** A "Responsible Employee" is an employee of the University who has the obligation to report to the Title IX Coordinator any Formal Complaints or allegations of Sexual Harassment of which he or she becomes aware. Strictly Confidential Resources are not Responsible Employees.

The following individuals are the University's Responsible Employees:

- (i) The President, Provost, Vice Provosts, Vice Presidents, Deans, Program Directors, Athletic Director and Head Coaches;
  - (ii) All Deputy Title IX Coordinators;
  - (iii) All Human Resources staff;
  - (iv) All Residence Life and Involvement staff (including, for purposes of clarity, Resident Assistants); and
  - (v) All Campus Safety Officers and contracted security personnel.
- (w) **Retaliation.** "Retaliation" means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Formal Complaint of Sexual Harassment, including but not limited to direct and indirect intimidation, threats, and harassment.
  - (x) **Sexual Assault.** "Sexual Assault" means any sexual act including Rape, Sodomy, Sexual Assault With An Object, or Fondling directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.

- (i) Rape (Except Statutory Rape)--The carnal knowledge of a person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - (ii) Sodomy—Oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - (iii) Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - (iv) Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - (v) Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
  - (vi) Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of Consent.
- (y) **Sexual Harassment.** “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:
- (i) An employee of Wingate University conditioning the provision of an aid, benefit, or service of Wingate University on an individual’s participation in unwelcome conduct;
  - (ii) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; or
  - (iii) “Sexual Assault” as defined in 20 U.S.C. 1092(f)(6)(v), “Dating Violence” as defined in 34 U.S.C. 12291(a)(10), “Domestic Violence” as defined in 34 U.S.C. 12291(a)(8), or “Stalking” as defined in 34 U.S.C. 12291(a)(30).
- Sexual Harassment also includes acts of intimidation, bullying, aggression or hostility based on gender or gender-stereotyping that meet the above criteria, even if the acts do not involve conduct of a sexual nature.
- (z) **Stalking.** “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her/his/their safety or the safety of others or suffer substantial emotional distress.

For purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property; “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim; and “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- (aa) Strictly Confidential Resource.** “Strictly Confidential Resource” is defined in Section 3.01(a).
- (bb) Third-Party Reporter.** A “Third-Party Reporter” is an individual who reports or files a Formal Complaint alleging that another individual is the victim of Sexual Harassment.
- (cc) Title IX Coordinator.** The University’s “Title IX Coordinator” is Dr. Nancy Randall, Vice President for Institutional Integrity, who can be contacted at 704.233.8065 or by email at nrandall@wingate.edu. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX–related complaints and for identifying and addressing any patterns or systemic problems involving Sexual Harassment. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or University processes, incidents, patterns, or problems related to Sexual Harassment. All allegations involving Sexual Harassment should be directed to the Title IX Coordinator.

The Title IX Coordinator will receive regular professional training in resolution practices and procedures. More specifically, the Title IX Coordinator will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct an impartial and equitable resolution process.

**EXHIBIT C** to  
**WINGATE UNIVERSITY SEXUAL HARASSMENT POLICY**

**SEXUAL HARASSMENT FORMAL COMPLAINT FORM**

Today's date: \_\_\_\_\_

**Information Regarding the Complainant:**

Name of the Complainant: \_\_\_\_\_

The Complainant is (please check one):       a faculty member                       a student  
    a staff member                               not affiliated with the University  
*For faculty, staff, & students, indicate whether  current or  former*

**Information Regarding the Respondent:**

Name of the Respondent: \_\_\_\_\_

The Respondent is (please check one):       a faculty member                       a student  
    a staff member                               not affiliated with the University  
*For faculty, staff, & students, indicate whether  current or  former*

**Information Regarding the Alleged Sexual Harassment:**

**Time and date of the alleged Sexual Harassment:** \_\_\_\_\_

**Location of the alleged Sexual Harassment:**

on campus: \_\_\_\_\_  
 off campus: \_\_\_\_\_

**Witnesses or third parties who may have information regarding the alleged Sexual Harassment:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Was the alleged Sexual Harassment (check all that apply):**

Sexual assault                       Rape  
                          Dating violence                       Domestic violence  
 Stalking                       Sexual activity requested by a University employee in return for a grade, promotion, benefit  
                          Other                       Unwelcome conduct that was severe, pervasive and offensive and impacted your education or  
employment

**Signature of the Complainant:** \_\_\_\_\_