

**SEX DISCRIMINATION POLICY
WINGATE UNIVERSITY**

TABLE OF CONTENTS

Important Information for Victims of Sexual Assault	1
ARTICLE I. INTRODUCTION	2
Section 1.01 Notice of Nondiscrimination	2
Section 1.02 Background.....	2
Section 1.03 Applicability of This Policy.....	3
Section 1.04 Period of Limitations.....	3
Section 1.05 Definitions Applicable to This Policy.....	3
ARTICLE II. STATEMENTS OF POLICY	4
Section 2.01 Prohibition on Sex Discrimination Including Sex-Based Harassment.....	4
Section 2.02 Prohibition on Retaliation.....	4
Section 2.03 Prohibition on Providing False Information.....	4
Section 2.04 Related Misconduct.....	4
Section 2.05 Limited Immunity.....	4
Section 2.06 Individuals with Disabilities.....	5
Section 2.07 Sex Discrimination Education.....	5
ARTICLE III. CONFIDENTIALITY	7
Section 3.01 Confidentiality in Reporting and Disclosure.....	7
Section 3.02 Confidentiality in the Investigation and Resolution Processes.....	8
ARTICLE IV. HOW TO REPORT SEX DISCRIMINATION.....	12
Section 4.01 Reporting to Local Law Enforcement.....	12
Section 4.02 Reporting to the University.....	12
ARTICLE V. POLICIES APPLICABLE TO ALL COMPLAINTS OF SEX DISCRIMINATION	16
Section 5.01 Oversight.....	16
Section 5.02 Conflicts.....	16
Section 5.03 Advisors of Choice.....	16
Section 5.04 Timing.....	16
Section 5.05 Documentation.....	16
Section 5.06 Confidentiality and Disclosure.....	17

ARTICLE VI. THE PROCESS APPLICABLE TO ALL COMPLAINTS OF SEX DISCRIMINATION	18
Section 6.01 STEP 1: A Report of Sex Discrimination Becomes a Complaint.....	18
Section 6.02 STEP 2: Notice of Allegations.	19
Section 6.03 STEP 3: Evaluation of Interim Supportive Measures and Removal.....	20
Section 6.04 STEP 4: Initial Meetings with the Assigned Deputy Title IX Coordinator.	22
Section 6.05 STEP 5: Decision Concerning Viability of Informal Resolution.....	23
Section 6.06 STEP 6: The Investigation.	23
Section 6.07 STEP 7: Determination of Formal Versus Informal Resolution.....	26
ARTICLE VII. FORMAL RESOLUTION	27
Section 7.01 Respondent’s Acknowledgement of Responsibility.....	27
Section 7.02 The Formal Resolution Process.....	27
Section 7.03 Appeals.....	31
ARTICLE VIII. INFORMAL RESOLUTION	34
Section 8.01 Respondent’s Acknowledgement of Responsibility.....	34
Section 8.02 The Informal Resolution Process.	34
EXHIBIT A. Suggested Actions for Victims of Sexual Assault	A-1
EXHIBIT B. Definitions.....	B-1
EXHIBIT C. Sexual Harassment Complaint Form.....	C-1

SEX DISCRIMINATION POLICY

Important Information for 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 the Title IX Coordinator:

Dr. April C. Smith, Title IX Coordinator
Stegall Administration Building
titleix@wingate.edu
a.smith@wingate.edu
704.233.8649

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.

SEX DISCRIMINATION POLICY

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, sex stereotypes, sex characteristics, pregnancy or related conditions, parental status, 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. April C. Smith, whose office is located in the Stegall Administration Building. Dr. Smith may be contacted by phone at 704.233.8649 or by email at titleix@wingate.edu or a.smith@wingate.edu.
- Inquiries concerning nondiscrimination on the basis of a student's disability may be referred to **the Office of Disability Services**, Kristin Wharton. Ms. Wharton's office is located on the 2nd 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.
- All other inquiries concerning nondiscrimination may be referred to Brandie Everett, **Office of Human Resources**. Ms. Everett's office is located in the Stegall Administration Building. Ms. Everett may be contacted by phone at 704.233.8810 or by email at b.everett@wingate.edu.

Section 1.02 Background.

Wingate University (the "University") is committed to maintaining and strengthening an environment founded on civility and respect. Sex Discrimination, including Sex-Based Harassment as defined by this Sex Discrimination 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.

Unless otherwise noted in this Policy, Sex Discrimination includes Sex-Based Harassment.

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 Sex Discrimination and timely and fair resolution of Sex Discrimination 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 Complaints of Sex Discrimination and Sex-Based Harassment (Articles III-VIII).

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

The University is committed to eliminating Sex Discrimination, preventing its recurrence, and addressing its effects.

Section 1.03 Applicability of This Policy.

This Policy applies to any allegation of Sex Discrimination, including Sex-Based Harassment made by or against a student or an employee of the University or a third party, regardless of the sex, sexual orientation, sex characteristics, sex stereotypes, gender, gender expression, gender identity, pregnancy or related conditions, or parental status of any party, if the conduct giving rise to the Report or Complaint is related to the University's academic, educational, athletic, or extracurricular programs or activities, including, but not limited to:

- Conduct that occurs in any building owned or controlled by a registered student organization that is officially recognized by the University; and
- Conduct that is subject to the University's disciplinary authority.

In the case of allegations of Sex Discrimination, 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 Complaint of Sex Discrimination may be lodged or filed at any time, regardless of the length of time between the alleged Sex Discrimination and the decision to make a Complaint. However, the University strongly encourages individuals to submit Reports or lodge Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in submitting a Report or lodging a 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 made.

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 Sex Discrimination Including Sex-Based 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 Sex Discrimination, including Sex-Based Harassment. The University strongly encourages prompt reporting of all types of sexual misconduct, including Sex-Based Harassment, and is committed to fostering a community that promotes timely and fair resolution of Sex Discrimination, sexual misconduct and Sex-Based Harassment cases. The University identifies Sex-Based Harassment as one form of Sex Discrimination.

This Policy identifies mechanisms for responding to, investigating, and resolving (either informally or formally in a case-specific determination) Sex Discrimination Reports and Complaints.

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 terms “Sex Discrimination” and “Sex-Based Harassment,” as defined in Exhibit B, to identify those acts that do warrant adjudication under, discipline pursuant to, and remedies congruent with this Policy.

Section 2.02 Prohibition on Retaliation.

Retaliation against any person for filing, supporting or not supporting, or providing information in good faith in connection with a Report or Complaint of Sex 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 they have been subjected to Retaliation should make a report to the Title IX Coordinator or Designee.

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 Sex Discrimination 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, adjudication, and remediation of Sex Discrimination, including Sex-Based 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 Sex Discrimination 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 reasonable 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 2nd 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 in the Stegall Administration Building).

Section 2.07 Sex Discrimination Education.

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

- (a)** The University regularly conducts Sex Discrimination training for its constituents, including the following groups:
 - (i)** Title IX Coordinator & Deputy Title IX Coordinators
 - (ii)** Investigators
 - (iii)** Members of the Hearing Board & Appeals Officers
 - (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 Sex Discrimination Policy.
 - (ii)** Title IX and related regulatory guidance, including the meaning of both Sex Discrimination and Sex-Based Harassment as defined by 34 CFR § 106.2.
 - (iii)** The University's responsibility to address allegations of Sex Discrimination including Sex-Based Harassment.
 - (iv)** Recognizing and responding to Reports of Sex Discrimination.
 - (v)** How to conduct an investigation into Complaints of Sex Discrimination including Sex-Based Harassment.

- (vi)** How to adjudicate or resolve Reports and Complaints of Sex Discrimination, including Sex-Based 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 involving sexual misconduct) and the effect of Sex-Based Harassment on victims.
- (viii)** Understanding the link between substance abuse and Sex-Based Harassment.
- (ix)** Which employees are “Mandatory Reporters” and which individuals and offices are “Confidential Employees”.
- (x)** Understanding what questions and evidence are Relevant to determination of responsibility for alleged Sex-Based 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 Sex Discrimination, in all forms, 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 Sex Discrimination.

- (a) **Licensed Mental Health Counselors, any designated University Chaplain or Minister, and Medical Staff.** Individuals may discuss alleged Sex Discrimination, including Sex-Based Harassment, in strict confidence with University employees who work in the following offices (“Confidential Employees”):
- (i) Counseling Services at 704.233.8979 or counseling@wingate.edu
 - (ii) A designated University Chaplain or minister, if any.
 - (iii) Health Center at 704.233.8102 or health.center@wingate.edu

This means that Personally Identifiable Information shared with Confidential Employees 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 their consent to the disclosure or the law requires it (as may be the case with alleged Sex-Based Harassment involving a minor or under conditions involving imminent physical harm, for example)).

Confidential Employees are not Mandatory Reporters and therefore are not required to (and will not, absent direction from the disclosing individual to do so) report incidents of alleged Sex Discrimination to the Title IX Coordinator. Confidential Employees will provide contact information for the Title IX Coordinator to the disclosing individual. For purposes of clarity, please understand that University employees who are not Confidential Employees are Mandatory Reporters. Communications made to Mandatory Reporters are not entitled to the same confidentiality protections as those made to Confidential Employees.

Other Confidential Employees include any employee of the University whose communications are privileged under Federal or State law associated with the role or duties for the University, including the General Counsel or any other legal counsel. An employee of the University who is conducting a Research Review Board-approved human-subjects research study designed to gather information about Sex Discrimination is also a Confidential Employee, but the researcher’s confidential status is limited to information received while conducting the study.

- (b) **The Title IX Coordinator and Mandatory Reporters.** The Title IX Coordinator and all Mandatory Reporters are not Confidential Employees. A disclosure to the Title IX Coordinator or a Mandatory Reporter constitutes a report to the University and obligates the University to begin an inquiry or 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 "Mandatory Reporter" in Exhibit B for a list of the University's Mandatory Reporters.

Section 3.02 Confidentiality in the Investigation and Resolution Processes.

- (a) Sharing of Information (Applicable to Reports and 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 Sex Discrimination matters.

Information regarding alleged Sex Discrimination 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 Sex-Based 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 Sex-Based Harassment.
 - 2)** Information regarding the alleged Sex-Based Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.
- (ii)** University personnel may report alleged Sex-Based 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 Sex Discrimination, including Sex-Based Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar behaviors, and address the effects of the Sex Discrimination.

- (b) Requests for Confidentiality.** If information regarding alleged Sex Discrimination is shared with the Title IX Coordinator and/or a Mandatory Reporter, but the alleged victim desires that a) the information not be shared with other Mandatory Reporters, with the Respondent, or with others, even as appropriate and necessary to address the allegations; b) that the University not investigate the information; and/or c) that no disciplinary action be taken, then the victim must request that the University treat such information as confidential. This signed, written request must be made to the Title IX Coordinator or Designee (or, if applicable to the Title IX Coordinator or Designee) within 3 business days of the initial meeting between the Complainant and the Title IX Coordinator following the Title IX Coordinator's receipt of the Report of alleged Sex Discrimination. Requests made after that 3-day period may still be considered but some information may have already been shared, such as information included in a Notice of Allegations.

- (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 Report or Complaint. The Title

IX Coordinator or Designee (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 Title IX Coordinator or Designee (or, if such determination has not yet been made, the Title IX Coordinator) may conduct a preliminary investigation into the alleged Sex Discrimination and may weigh requests for confidentiality against the following factors, among others:

- 1) The Complainant's request not to proceed with initiation of a Complaint;
- 2) The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- 3) The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
- 4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the discrimination and prevent its recurrence;
- 5) The age and relationship of the Parties, including whether the Respondent is an employee of the University;
- 6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- 7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- 8) Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

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 and/or not initiate the grievance procedure. If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access based on sex to its education program or activity under § 106.44(f)(1)(v), the Title IX Coordinator may initiate a Complaint.

- (ii) **Determination as to Whether Request Can Be Granted.** The Title IX Coordinator or Designee 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 Supportive 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 Sex Discrimination 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. Furthermore, while the University will take reasonable steps to limit disclosure of the allegations and the persons allegedly involved, the Respondent is free to disclose information about the allegations, including the identity of the Complainant, and does have the right to contact witnesses who may have Relevant evidence. Thus, by honoring a Complainant's request for confidentiality, the University may not be able both to resolve or adjudicate the 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 Sex Discrimination 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 Sex Discrimination may be included in University records, as necessary and appropriate.
- 3) University personnel will (and are obligated to) handle information regarding alleged Sex-Based 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 Sex-Based Harassment, such as Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
 - (B) Information regarding the alleged Sex-Based 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 Sex-Based Harassment.

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

ARTICLE IV. HOW TO REPORT SEX DISCRIMINATION

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.

Wingate University is committed to ensuring that no person who participates or is attempting to participate in the University's education program or activity is excluded from participation in, subjected to discrimination in connection with, or denied the benefits of any University programs or activities due to their sex, sex stereotypes, sex characteristics, sexual orientation, gender identity, pregnancy or related conditions, or parental status pursuant to the rights, responsibilities, and restrictions of Title IX and 34 CFR §106.

Because Sex-Based 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 Sex-Based Harassment promptly to University officials and to law enforcement authorities, where appropriate.**

Individuals have the option not to Report Sex Discrimination, including alleged Sex-Based 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 Sex Discrimination is reported or comes to the attention of the University, the University (1) will start an inquiry even in the absence of a 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. April C. Smith, from 8:30am-5pm Monday through Friday (available by phone at 704.233.8649 or by email at titleix@wingate.edu or a.smith@wingate.edu and located in the Stegall Administration 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 Sex-Based Harassment and discuss the matter with a law enforcement officer without making a Report or Complaint. Individuals who make a criminal complaint may also choose to submit a Report and/or pursue a Complaint simultaneously.

Section 4.02 Reporting to the University.

If you wish for information regarding Sex Discrimination to be investigated and addressed pursuant to this Policy, you must Report such information to the **Title IX Coordinator** or to a **Mandatory Reporter**. *See the definition of "Mandatory Reporter" in Exhibit B.* For clarity, Confidential Employees are not Mandatory Reporters and are generally prohibited from reporting alleged Sex Discrimination to others absent an express directive from the alleged victim to do so.

Individuals may Report information regarding Sex Discrimination 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 Complaint, or if an individual is otherwise uncomfortable making a Complaint to the Title IX Coordinator, they may report alleged Sex Discrimination to any other Mandatory Reporter.

No member of the University community may discourage an individual from reporting alleged incidents of Sex Discrimination. With the exception of certain research-based disclosures described in the following paragraph, a Mandatory Reporter with any knowledge (including firsthand observation) about a known or suspected incident of Sex Discrimination 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 Complaints without the approval and involvement of the Title IX Coordinator or an Title IX Coordinator or Designee.

A Report of incidents of alleged Sex Discrimination 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") that focuses on Sex Discrimination will not be considered notice to the University of Sex Discrimination for purposes of triggering its obligation to investigate the incident at issue. (More specifically, a Mandatory Reporter whose knowledge of a known or suspected incident of Sex Discrimination 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 Sex Discrimination.

Individuals may also file **anonymous Reports** by reporting the Sex Discrimination 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 Sex Discrimination, whether written, verbal, or otherwise, the Title IX Coordinator shall contact the victim(s) (if their identity can be ascertained from the Report) and explain to the victim(s) the options for making a Complaint (if one has not already been made) and the availability of Supportive Measures pursuant to Article VI. As a threshold step, the Title IX Coordinator shall review the Report to determine whether it alleges facts that, if true, could rise to the level of Sex Discrimination, which may include Sex-Based Harassment. If the Report does not allege facts that, if true, could rise to the level of Sex Discrimination, or if the Respondent is not participating in the University's education program or activity or is not employed by the University, the Title IX Coordinator may dismiss any Complaint that arises from said Report. If the Report alleges facts that, if true, could rise to the level of Sex Discrimination including Sex-Based Harassment, the Complaint shall be initiated or processes associated with Informal Resolution of a Report without a subsequent or attendant Complaint may be initiated. The Title IX Coordinator may make inquiries

concerning the Report, such as by talking with the Complainant or the Third-Party Reporter, as part of this threshold step.

Reporting to the University:
WHAT HAPPENS AFTER I REPORT?

<p>If you Reported directly to the Title IX Coordinator or made a Complaint:</p>	<p>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, making a Complaint, and for Supportive Measures. If you have made a Complaint, the Title IX Coordinator, after determining whether the Complaint alleges facts that, if true, could rise to the level of Sex Discrimination, 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).</p>
<p>If you reported to a Mandatory Reporter (including a Deputy Title IX Coordinator): <i>(See the definition of “Mandatory Reporter” in Exhibit B)</i></p>	<p>The Mandatory Reporter 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, making a Complaint and for Supportive Measures.</p>
<p>If you confided in the Counseling Center, Health Center, or University Chaplain:</p>	<p>The information you provided will remain strictly confidential 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, Health Center, or Chaplain (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>

ARTICLE V.

POLICIES APPLICABLE TO ALL COMPLAINTS OF SEX DISCRIMINATION

Section 5.01 Oversight.

The Title IX Coordinator or Designee will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of Complaints lodged 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 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 these 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 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 Report or Complaint, including any appeals, occurs in as timely and efficient a manner as possible and within one calendar year of receipt of the Complaint.

Any party may request an extension of any deadline by providing the Title IX Coordinator or Designee with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator or Designee may modify any deadlines contained in this Policy as necessary and for good cause; in such case, the Title IX Coordinator or Designee 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 Complaint if written, 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 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.

ARTICLE VI. THE PROCESS APPLICABLE TO ALL COMPLAINTS OF SEX DISCRIMINATION

Section 6.01 STEP 1: A Report of Sex Discrimination Becomes a Complaint.

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

- (a)** An alleged victim or Third Party may submit a Report of alleged Sex Discrimination through a form located on the University Title IX website (www.wingate.edu/title-ix), in a form provided by the Title IX Coordinator, or by submitting a written statement in their 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 Sex Discrimination). A Report is not a Complaint but may become a Complaint if the alleged victim, a third party who is attempting to participate in the University's education program or activity, or the Title IX Coordinator submit the Complaint form (Exhibit C in this Sex Discrimination Policy).
- (b)** An alleged victim may meet in person (or via a teleconferencing platform) with the Title IX Coordinator to Report alleged Sex Discrimination. In such a situation, the Title IX Coordinator will ask the alleged victim to state if they wish to lodge a Complaint or if they, alternatively, wish to complete a 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. Even in the absence of a Complaint by a victim or the withdrawal of any or all of the allegations in a Complaint by a victim, and in the absence or termination of an informal resolution process, the Title IX Coordinator may initiate a Complaint on behalf of the University based on a fact-specific determination.

To make this fact-specific determination, the Title IX Coordinator will consider, at a minimum, the following factors:

- (1)** The Complainant's request not to proceed with the initiation of a Complaint;
- (2)** The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- (3)** The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
- (4)** The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the discrimination and prevent its recurrence;
- (5)** The age and relationship of the Parties, including whether the Respondent is an employee of the University;

- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a 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 Complaint to determine whether it alleges facts that, if true, could rise to the level of Sex Discrimination, which may include Sex-Based Harassment. If the Complaint does not allege facts that, if true, could rise to the level of Sex Discrimination, or if the Respondent is not participating in the University’s education program or activity or is not employed by the University, the Title IX Coordinator may dismiss the Complaint. If the Complaint alleges facts that, if true, could rise to the level of Sex-Based Harassment, the Complaint shall be initiated. The Title IX Coordinator may make inquiries concerning the Complaint, such as by talking with the Complainant or the Third-Party Reporter, as part of this threshold step.

If a Report of Sex Discrimination is made concerning the University or its policies, the University is not designated as a Respondent. The process of resolution, however, may continue with officers of the University participating in the University’s stead and with the presumption of remediation of any findings of Sex Discrimination.

Even if a Complaint is not lodged, the Title IX Coordinator or Designee may still offer Informal Resolution if appropriate under the circumstances.

Section 6.02 STEP 2: Notice of Allegations.

- (a) ***Following the initiation of a Complaint the Title IX Coordinator will, provide formal written notice to all known parties*** at least five (5) days in advance of any initial interview. The written notice will contain the following information:
 - (i) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), if known, the conduct alleged to constitute Sex Discrimination under Title IX, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available;
 - (ii) A statement that the Respondent is presumed not responsible for the alleged Sex Discrimination 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 Sex-Based 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 are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if the University provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
 - (vii) A statement that the parties' chosen advisors may inspect and review evidence gathered during the Investigation directly related to the allegations raised in the Complaint;
 - (viii) A statement that Retaliation against any person for filing, supporting or providing information in good faith in connection with a Report or Complaint of Sex Discrimination is strictly prohibited, as is Retaliation for choosing not to participate in the procedures; and
 - (ix) 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 Sex Discrimination 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 Complaint (and at any point during the Complaint, investigation, or disciplinary processes, if the Title IX Coordinator or Designee deems it necessary for the protection of any member of the University community), the Title IX Coordinator or Designee 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 Sex Discrimination, the Title IX Coordinator or Designee 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 they 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 Title IX Coordinator or Designee, 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 Measures must be non-disciplinary and non-punitive, and not unreasonably burdensome to the other party. If a party wishes to seek modification or reversal of specific Supportive Measures, the party may do so by writing to the Title IX Coordinator, who will assign an impartial employee to evaluate and respond to the request. The University may continue providing any interim Supportive Measure even in the event a Respondent is found not responsible for Sex Discrimination.

(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 Title IX Coordinator or Designee may remove a Respondent from its educational program, campus housing, and/or any other University activity prior to the adjudication of the Complaint pursuant to this Policy.

The Title IX Coordinator or Designee will notify the Respondent of the proposed interim measure(s) in writing. If a party wishes to seek modification or reversal of specific Supportive Measures, the party may do so by writing to the Title IX Coordinator, who will assign an impartial employee to evaluate and respond to the request. The decision of the impartial employee 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 Title IX Coordinator or Designee 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 Title IX Coordinator or Designee 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 Title IX Coordinator or Designee will notify the Respondent of the proposed interim measure(s) in writing (to the extent necessary to implement those measures). If a party wishes to seek modification or reversal of specific Supportive Measures, the party may do so by writing to the Title IX Coordinator, who will assign an impartial employee to evaluate and respond to the request. The decision of the impartial employee will be final.

Section 6.04 STEP 4: Initial Meetings with the Title IX Coordinator or Designee.

- (a) Complainant's Initial Meeting with the Title IX Coordinator or Designee.** As soon as is practicable, the Title IX Coordinator or Designee will contact the Complainant to schedule an initial meeting to discuss the Report or Complaint and avenues for its resolution. (If the person who reported the alleged Sex Discrimination is a Third-Party Reporter, the Title IX Coordinator or Designee will attempt to meet with the Third-Party Reporter 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 Title IX Coordinator or Designee 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 them, the Respondent.

The Complainant may, within seven calendar days of the interview with the Title IX Coordinator or Designee, submit a written statement of position regarding the alleged Sex Discrimination to the Title IX Coordinator or Designee.

- (b) Respondent's Initial Meeting with the Title IX Coordinator or Designee.** As soon as is reasonably practicable after the Title IX Coordinator or Designee's initial meeting with the Complainant, the Title IX Coordinator or Designee will schedule an initial meeting with the Respondent to discuss the Report or 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 Report or Complaint. During this initial meeting the Title IX Coordinator or Designee 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 Title IX Coordinator or Designee 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 them, the Complainant.

The Respondent may, within seven calendar days of the interview with the Title IX Coordinator or Designee, submit a written statement of position regarding the alleged Sex Discrimination to the Title IX Coordinator or Designee.

Section 6.05 STEP 5: Decision Concerning Viability of Informal Resolution.

If a Complaint has not been lodged **or** if the Complainant desires to proceed with informal resolution, **and** provided that both parties agree in writing, the matter may be resolved through the informal resolution process pursuant to Article VIII of this Policy. For other circumstances, the process continues as outlined herein continuing with Section 6.06-6.07 and Article VII. The University does not offer informal resolution to resolve a Complaint that includes allegations that an employee engaged in Sex-Based Harassment of an elementary or secondary school Student or when such a process would conflict with Federal, State, or local law.

Section 6.06 STEP 6: 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 Sex Discrimination, for the purposes of this Policy, has occurred.

- (b) The Title IX Coordinator or Designee's Initial Determination.** The Title IX Coordinator or Designee will review the Complaint, as formal resolution processes necessitate the lodging of a Complaint. The Title IX Coordinator or Designee will promptly appoint an Investigator, will share the Investigator's name and contact information with the Complainant and the Respondent, and will forward the Complaint to the Investigator *unless* it is clear on its face and/or based on the Title IX Coordinator or Designee's initial meetings with the parties that *no* reasonable grounds exist for believing that the conduct at issue constitutes Sex Discrimination. The Title IX Coordinator may serve conterminously as the Investigator.

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

In the event that the Complaint was made by a Third-party Reporter, the Title IX Coordinator or Designee will also consider the following factors in determining whether it is reasonable to assign an Investigator to investigate the 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 Sex Discrimination can be identified, and
- (vi) Whether those individuals wish to pursue the matter.

In the event that the Title IX Coordinator or Designee determines that an investigation of the Complaint is not warranted, they will close the 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 Officer. The Title IX Coordinator will appoint an Appeals Officer.. The Appeals Officer may not include the Title IX Coordinator or any Deputy Title IX Coordinators or Investigator involved in the matter on appeal. The Title IX Coordinator shall provide a copy of the appeal to the Appeals Officer upon receipt. The Title IX Coordinator will promptly inform the other party of the appeal.

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

The Appeals Officer 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 Title IX Coordinator or Designee or the investigator 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 Officer is final.

(c) The Investigator's Activities. Upon receipt of the Complaint, the Investigator will promptly begin the 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 Investigator 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 Complaint or to gather or present Relevant evidence. The Complainant and Respondent may submit inculpatory and exculpatory evidence to the Investigator, including from fact and expert witnesses.
- (e) **Parties' and Witnesses' Expectations of Privacy.** The University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, or to consult with a family member, confidential resource or advisor, or to prepare for a hearing, or otherwise defend their interests.
- (f) **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 privilege. 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.
- (g) **Parties' Ability to Inspect Evidence.** Prior to the creation of a final written investigative report, the Investigator will send the Complainant and Respondent and their chosen advisors, if any, a preliminary investigative report which summarizes the Relevant and not otherwise impermissible evidence. At that time, any party may request access to the Relevant and not otherwise impermissible evidence and the Investigator will promptly make such arrangements. All parties to whom the preliminary investigative report is distributed pursuant to this Policy must maintain it in confidence (even after the resolution of the Complaint). The Complainant and Respondent shall have ten (10) days to submit a written response to the preliminary investigative report. The Investigator will consider any written response received prior to completing the investigative report.
- (h) **The Investigator's Report.** The Investigator will complete a written investigative report that includes items such as the 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 Investigator will share the Investigative Report with the Title IX Coordinator or Designee, 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 Complaint); the Investigative Report may only be disclosed as is contemplated by this Policy.

(i) The Title IX Coordinator or Designee's Evaluation of the Investigative Report.

The Title IX Coordinator or Designee will evaluate the Investigative Report and will direct that the 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 Sex Discrimination.

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

If the Title IX Coordinator or Designee finds that it is clear from the Investigative Report that no reasonable grounds exist to believe that the conduct at issue constitutes Sex Discrimination, then the Title IX Coordinator or Designee will close the 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 Title IX Coordinator or Designee's decision in writing to an Appeals Officer (providing a copy of the appeal to the Title IX Coordinator or Designee and Title IX Coordinator) within fourteen (14) days of receipt of the notice. The Title IX Coordinator will appoint an Appeals Officer, The Appeals Officer may be the Title IX Coordinator or any Deputy Title IX Coordinators or Investigator involved in the matter on appeal. The Title IX Coordinator shall provide a copy of the appeal to the Appeals Officer upon receipt. The Title IX Coordinator or Designee will promptly inform the other parties of the appeal. The Appeals Officer will promptly make a determination as to whether the 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 Officer.

Section 6.07 STEP 7: 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 their Complaint through the informal resolution process in accordance with Article VIII of this Policy, provided that the Respondent agrees to such resolution in writing. A Complaint that is not closed pursuant to the Title IX Coordinator or Designee'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 their actions and take responsibility for the alleged Sex Discrimination. In such a situation, the Title IX Coordinator or Designee will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the 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 hearing in which the Complainant and the Respondent will be entitled to present evidence, the parties' advisors may pose questions, and the Hearing Board may pose questions to assess credibility and evaluate 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 the Respondent. 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 Title IX Coordinator or Designee 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 or any Deputy Title IX Coordinator(s) or Investigator involved in the Complaint before the Hearing Board. The Title IX Coordinator or Designee will share the Complaint and the Investigative Report (redacted, if applicable, pursuant to Section 6.06(e), (f) and (g)) with the Hearing Board and, if only a portion of the misconduct alleged in the Complaint justifies continuing to the hearing process, the Title IX Coordinator or Designee will specify which part(s) of the alleged Sex Discrimination 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 Title IX Coordinator or Designee 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 Sex Discrimination justifies continuing to the hearing process, the Title IX Coordinator or Designee 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 Title IX Coordinator or Designee within three (3) 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 Title IX Coordinator

or Designee 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 Board Practices, Policies and Procedures.

- (i) Submission of Witness and Exhibit Lists by Complainant and Respondent.** Within five (5) 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** Not less than five (5) days but not more than ten (10) 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 and/or any witness fail 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 Complaint.
- (iv) Support Advisors of Choice.** As provided in Section 7.03, 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.
- (v) Presentation of Evidence.** The Complainant and the Respondent will have an opportunity to present witnesses and evidence to the Hearing Board. The Hearing Board members and the advisors for the parties (but not the parties themselves) may question the parties and witnesses. Questions must be Relevant and not otherwise impermissible. The Hearing Board Chair will explain any decision to exclude a question as not Relevant. The witnesses, including the parties, may choose not to answer questions. If a party or witness does not respond to questions, the Hearing Board may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed Relevant and not impermissible. The investigator/decisionmaker will not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.
- (vi) Evidentiary Matters.**

- 1) **Relevancy.** During a hearing, the parties may object to the Relevancy of a question posed by an advisor or the Hearing Board. 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 was consensual.

(vii) **Technology.**

- 1) **Closed-Circuit Technology.** If the Chair, in consultation with the Title IX Coordinator or Designee, 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 (video-conferencing) 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 Officer may use the recording as part of the appeal process. No other audio and/or visual recording of the individual meetings or hearing is permitted.

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

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

- 1) **Responsibility Determination.** Following the conclusion of the hearing process, the Hearing Board will confer and, by majority vote, determine whether the evidence (including the information provided in the Investigative Report, the evidence presented, and the testimony of the parties and witnesses) establishes that it is more likely than not¹ that the Respondent committed Sex Discrimination.
- 2) **Written Decision.** As soon as is reasonably practical under the circumstances following the conclusion of the hearing, the Hearing Board will prepare a written decision that explains its responsibility finding. The

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

Hearing Board will provide this decision concurrently to the parties and the Title IX Coordinator or Designee. This decision will include:

- (A) Identification of the allegations potentially constituting Sex Discrimination that the Hearing Board adjudicated;
- (B) A description of the procedural steps the University took;
- (C) Information about the policies and procedures that the University used to evaluate the allegations;
- (D) The Hearing Board's evaluation of the Relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred and findings of fact supporting the determination;
- (E) When the Hearing Board finds that Sex Discrimination occurred, any Disciplinary Sanctions the University will impose on the Respondent, and whether remedies other than the imposition of Disciplinary Sanctions will be provided to the Complainant, and to the extent appropriate, other students identified by the University to be experiencing the effects of the Sex Discrimination; 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 Sex Discrimination, 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 Title IX Coordinator or Designee 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 Title IX Coordinator or Designee 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 Title IX Coordinator or Designee will also determine if any additional accommodations should be provided to the Complainant. If so, the Title IX Coordinator or Designee will communicate such decision to the Complainant, and, to the extent that it affects them, to the Respondent. Such accommodations may include, but are not limited to, those listed in Section 6.03(a) of this Policy.
- 3) The Title IX Coordinator or Designee 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, and providing trainings for the University community. The Title IX Coordinator or Designee will also, where appropriate, take steps to prevent the harassment of the Respondent.
- 4) The Title IX Coordinator or Designee will take prompt corrective action if the Complainant experiences Retaliation or is subjected to further Sex Discrimination 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 Title IX Coordinator or Designee (with a copy to the 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 Title IX Coordinator or Designee will promptly inform the other party of the filing of the appeal.
- (b) **Appeals of the Decision of the Hearing Board Regarding Responsibility for Sex Discrimination.**
 - (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 Title IX Coordinator or Designee, the investigator, 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 Officer.** The Title IX Coordinator will appoint an Appeals Officer. The Appeals Officer may not be the Title IX Coordinator, any Deputy Title IX Coordinators, any members of the Hearing Board, or the investigator that investigated the matter before the Appeals Officer. The Title IX Coordinator or Designee will share the Complaint, the Investigative Report, the written findings of the Hearing Board, and the Appellant’s appeal statement with the Appeals Officer.
- (iii) **Appeal Opposition Statement.** The party that has not filed the appeal (the “Appellee”) may file a written statement to the Appeals Officer 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 Title IX Coordinator or Designee will promptly provide the Appellee’s statement to the Appellant.
- (iv) **Appeals Officer Decision.** As soon as is reasonably practicable given the circumstances, the Appeals Officer will make a determination 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 Appeals Officer should issue a written explanation of his or her reasoning in reaching the decision. The Appeals Officer should provide the decision concurrently to the Complainant, the Respondent, and the Title IX Coordinator or Designee.
- (v) **Result of Appeal Decision.** In the event that the Appeals Officer determines that the decision of the Hearing Board should be overturned, the Appeals Officer will specify the appropriate steps to be taken to come to a final resolution of the 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 Sex Discrimination for which the Respondent was found responsible.
 - (ii) **Appeals Officer.** The Title IX Coordinator will appoint an Appeals Officer. The Appeals Officer may not be the Title IX Coordinator, any Deputy Title IX Coordinators, any members of the Hearing Board, or the investigator that investigated the matter before the Appeals Officer. The Title IX Coordinator or Designee will share the Complaint, the Investigative Report, the written findings of the Hearing Board, and the written appeal with the Appeals Officer.

- (iii) **Appeal Opposition Statement.** The Appellee may file a written statement to the Appeals Officer 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 Title IX Coordinator or Designee will promptly provide the Appellee's statement to the Appellant.
- (iv) **Appeals Officer's Decision.** As soon as is reasonably practicable given the circumstances, the Appeals Officer will make a determination regarding whether the sanctions issued by the Hearing Board should stand or should be overturned. In the event that the Appeals Officer determines that the decision of the Hearing Board should be overturned, the Appeals Officer 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 Appeals Officer should issue a written explanation of his or her reasoning in reaching the decision. The Appeals Officer should provide the decision concurrently to the Complainant, the Respondent, and the Title IX Coordinator or Designee.

ARTICLE VIII. INFORMAL RESOLUTION

Informal resolution is appropriate if both the Complainant and the Respondent agree to such resolution in writing. However, when there is an allegation that an employee engaged in sex-based harassment of an elementary school or secondary school student or when an informal resolution process would conflict with applicable Federal, State, or local law, informal resolution is not available. A Complaint need not be made to initiate the informal resolution process.

Informal resolution may not be selected for less than all of the misconduct identified in the allegations (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 Title IX Coordinator or Designee 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 not 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 their actions and take responsibility for the alleged Sex Discrimination. In such a situation, the Title IX Coordinator or Designee 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 allegation 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 Sex Discrimination shall apply.

Section 8.02 The Informal Resolution Process.

- (a) The Presiding Officer.** When the Complainant's allegation is to be resolved according to the informal resolution process, the Title IX Coordinator or Designee will oversee the process.
- (b) Notice of Informal Resolution.** The Title IX Coordinator or Designee 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 an allegation of Sex Discrimination has been made, but no party is required to consent to informal resolution. If only a portion of the alleged misconduct justifies continuing to resolution, the Title IX Coordinator or Designee 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 Title IX Coordinator or Designee 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) **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 Title IX Coordinator or Designee may direct that resolution of the allegation be determined according to the formal resolution process set forth in Article IX or may reschedule the informal resolution.

(d) **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 Title IX Coordinator or Designee;
- 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 Title IX Coordinator or Designee); 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 Title IX Coordinator or Designee will attempt to facilitate the parties' resolution of the allegation or Complaint. If this process results in a resolution between the parties and the Title IX Coordinator or Designee 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 allegation or Complaint will be closed. Informal resolution may include disciplinary measures.

EXHIBIT A

to the

Wingate University Sex Discrimination Policy

Suggested Actions for Victims of Sexual Assault

While all types of Sexual-Based 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 infections (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. April C. Smith, whose office is in the Stegall Administration Building. Contact available at 704.233.8649 or titleix@wingate.edu or a.smith@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.

The **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 Sex Discrimination Policy. The Title IX Coordinator can help you access resources 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 SEX DISCRIMINATION POLICY

Definitions

- (a) Appeals Officer.** “Appeals Officer” is defined in Section 7.03(a)(ii). All Appeals Officers will receive regular professional training in hearing practices and procedures. More specifically, the Appeals Officers 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) Title IX Coordinator or Designee.** The “Title IX Coordinator or Designee” means either the Title IX Coordinator or a designated Deputy Title IX Coordinator who is assigned to handle a given 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 (1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under Title IX; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under Title IX and who was participating or attempting to participate in the University’s education program or activity when the alleged Sex Discrimination occurred.
- (e) Complaint.** A “Complaint” is an oral or written request to the University to initiate the University’s grievance procedures pursuant to Sections 4.01, 4.02, 6.01, or 6.02.
- (f) Confidential Employee.** A “Confidential Employee” means (1) an employee of the University whose communications are privileged under Federal or State of North Carolina law associated with their role or duties for the University; (2) an employee of the University whom has been designated as a confidential resource for the purpose of providing services to persons in connection with Sex Discrimination—but if the employee also has a role or duty not associated with providing these services, the employee’s status as confidential is limited to information about Sex Discrimination in connection with providing these services; or (3) an employee of the University who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination—but the employee’s confidential status is limited to information received while conducting the study.
- (g) 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 Sex-Based 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.

(h) 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.

(i) Day. A "day" is a business day, unless otherwise specified.

(j) Deputy Title IX Coordinator(s). The University's "Deputy Title IX Coordinators" are:

- (i) Dr. Michelle Chaplin, Assistant Dean of Pharmacy, m.chaplin@wingate.edu, Hendersonville Campus, 828.697.0105 x 602
- (ii) Ms. Tariah Harrell, Assistant Director of Community Standards, tar.harrell@wingate.edu, Stegall Administration Building, 704.233.8023
- (iii) Ms. Jessica Head, Director of Residence Life, j.head@wingate.edu, Alumni Hall, 704.233.8376;
- (iv) Dr. Eric Schneider, Vice Provost for Institutional Effectiveness, e.schneider@wingate.edu, Stegall Administration Building, 704.233.8675
- (v) Mr. Molick Scott, Assistant Director of Athletics, m.scott@wingate.edu, Cannon Athletic Complex, 704.233.8193
- (vi) Other University employees who may be designated from time to time.

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related Reports and Complaints. The Title IX Coordinator may, at their discretion, assign a Deputy Title IX Coordinator as the Title IX Coordinator or Designee in connection with a given Report or Complaint. Deputy Title IX Coordinators receive regular professional training in resolution practices and procedures, including annual training on issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking as well as how to conduct an impartial and equitable resolution process.

- (k) **Disciplinary Sanctions.** “Disciplinary Sanctions” means consequences imposed on a Respondent following a determination that the Respondent violated the University’s prohibition on Sex Discrimination.
- (l) **Domestic Violence.** “Domestic Violence” includes felony or misdemeanor crimes of violence committed by:
 - (i) a current or former spouse or intimate partner of the victim or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of North Carolina;
 - (ii) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (iii) shares a child in common with the victim; or,
 - (iv) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of North Carolina.
- (m) **Education Record.** “Education Record” has the meaning assigned to it under FERPA.
- (n) **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.

- (o) **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) the scope of conduct that constitutes Sex Discrimination, including the definition and elements of Sex-Based Harassment; (2) how to conduct an impartial and equitable hearing process; and (3) the meaning and application of the term Relevant in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance.
- (p) **Hostile Environment Harassment.** Unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, denies or limits a person’s ability to participate in or benefit from the University’s education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) the degree to which the conduct affected the Complainant’s ability to access the University’s education program or activity;
 - (ii) the type, frequency, and duration of the conduct;
 - (iii) the Parties’ ages, roles within the University’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (iv) the location of the conduct and the context in which the conduct occurred; and
 - (v) Other Sex-Based Harassment in the University’s education program or activity.
- (q) **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.
 - (r) **Investigative Report.** “Investigative Report” is defined in Section 6.06(h).
 - (s) **Investigator.** The “Investigator” is a neutral fact-finder who is designated by the Title IX Coordinator or Designee to investigate a Complaint. Investigators will be trained annually on (1) reasonable and appropriate investigative techniques, (2) the scope of conduct that constitutes Sex Discrimination, including the definition and elements of Sex-Based Harassment; (3) the meaning and application of the term Relevant in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance; and (4) how to conduct an impartial and equitable investigation. The Title IX Coordinator may be an investigator.
 - (t) **Mandatory Reporter.** A “Mandatory Reporter” is an employee of the University who has the obligation to report to the Title IX Coordinator or to other designated University officials any Complaints or allegations of Sex Discrimination of which they become aware. All employees (including GA’s and student workers, provided that the report was received in their capacity

as an employee, as opposed to a student) are Mandatory Reporters other than Confidential Employees.

(u) Parental Status. “Parental Status” means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (i)** A biological parent;
- (ii)** An adoptive parent;
- (iii)** A foster parent;
- (iv)** A stepparent;
- (v)** A legal custodian or guardian;
- (vi)** In loco parentis with respect to such a person; or
- (vii)** Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

(v) 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.

(w) Pregnancy or Related Conditions. “Pregnancy or Related Conditions” means:

- (i)** Pregnancy, childbirth, termination of pregnancy, or lactation;
- (ii)** Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

- (iii) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.
- (x) **Quid Pro Quo Harassment.** “Quid Pro Quo Harassment” means an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
- (y) **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/Complainant, including instances in which the Complainant is incapable of giving Consent.
- (z) **Relevant.** “Relevant” means related to the allegations of Sex Discrimination under investigation as part of the grievance procedures. Questions or issues are Relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination occurred.
- (aa) **Remedies.** “Remedies” means measures provided, as appropriate, to a Complainant or any other person the University identifies as having had equal access to the University’s education program or activity limited or denied by Sex Discrimination. These measures are provided to restore or preserve that person’s access to the University’s education program or activity after the University determines that Sex Discrimination occurred.
- (bb) **Report.** “Report” means information concerning potential Sex Discrimination that has been reported to the University by one or more victims or third parties.
- (cc) **Respondent.** A “Respondent” is an individual who is alleged to have violated the University’s prohibition on Sex Discrimination.
- (dd) **Retaliation.** “Retaliation” means intimidation, threats, coercion, or discrimination against any person by a student, employee, persons authorized by the University to provide aid, benefit, or service under the University’s education program or activity, or the University for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, hearing, or any other appropriate steps taken by the University in response to Sex Discrimination under this Policy.
- (ee) **Sex Discrimination.** “Sex Discrimination” means “discrimination on the basis of sex” as that language is used in the statutory text of Title IX. For purposes of clarity, Sex Discrimination includes Sex-Based Harassment unless clearly articulated differently in the text of this Policy
- (ff) **Sex-Based Harassment.** “Sex-Based Harassment” means sexual harassment, harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and other conduct on the basis of sex that is:
 - (i) Quid Pro Quo Harassment; or
 - (ii) Hostile Environment Harassment; or

(iii) Specific Offenses of Sexual Harassment. Specific Offenses include Sexual Assault, Dating Violence, Domestic Violence, and Stalking

(gg) **Sexual Assault.** “Sexual Assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

(i) Forcible sex offense 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.

(1) Forcible rape (except statutory rape (defined below)) — the carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving Consent because of their temporary or permanent mental or physical incapacity.

(2) Forcible sodomy — oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity.

(3) 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, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity.

(4) Forcible fondling — the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity.

(ii) Nonforcible sex offense means: unlawful, nonforcible sexual intercourse.

(1) Incest — nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(2) Statutory rape — nonforcible sexual intercourse with a person who is under the statutory age of Consent.

Stalking. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for 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.

- (hh) Supportive Measures.** "Supportive Measures" means non-disciplinary, non-punitive individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a party, and without fee or charge to the Complainant or Respondent to: (i) restore or preserve that party's access to the University's education program or activity; including temporary measures that burden a Respondent imposed for non-punitive and non-disciplinary reasons and that are designed to protect the safety of the Complainant or the University's educational environment, or deter the Respondent from engaging in Sex-Based Harassment; or (ii) provide support during the University's grievance procedures or during the informal resolution process.
- (ii) Third-Party Reporter.** A "Third-Party Reporter" is an individual who reports or makes a Complaint alleging that another individual is the victim of Sex Discrimination.
- (jj) Title IX Coordinator.** The University's "Title IX Coordinator" is Dr. April C. Smith, Associate Vice President for Institutional Integrity, who can be contacted at 704.233.8649 or by email at titleix@wingate.edu or a.smith@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 Sex Discrimination. 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 Sex Discrimination. All allegations involving Sex Discrimination including Sex-Based 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) the University's obligation to address Sex Discrimination in its education program and activities; (2) how to conduct an impartial and equitable resolution process; (3) the scope of conduct that constitutes Sex Discrimination and Sex-Based Harassment; (4) all applicable notification and information requirements; (5) the meaning and application of the term Relevant in relation to questions and evidence, and the types of evidence that are impermissible regardless of Relevance; and (6) recordkeeping requirements.

**EXHIBIT C to
WINGATE UNIVERSITY SEX DISCRIMINATION POLICY**

SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT FORM

Today's date: _____

This document is an allegation by you (the Complainant, the person who is alleged to be the victim of conduct that could constitute sex discrimination including sex-based harassment) that the Respondent(s) engaged in sex discrimination and you are requesting an investigation and a formal/informal resolution process.

Information Regarding the Complainant (the victim):

Name of the Complainant: _____

The Complainant is (please circle one):

- A faculty member at Wingate University
- A staff member at Wingate University
- A student at Wingate University
- An applicant (for admission or employment) at Wingate University
- Not affiliated with Wingate University
- Unknown or unsure

Are you (the Complainant) currently a student or employee at Wingate University? Yes or no:

Complainant's Wingate University ID number (if known and applicable): _____

Information Regarding the Respondent (the alleged perpetrator of sex discrimination, or the person being accused):

Name(s) of the Respondent(s):

The Respondent is (please circle one):

- A faculty member at Wingate University
- A staff member at Wingate University
- A student at Wingate University
- An applicant (for admission or employment) at Wingate University
- Not affiliated with Wingate University
- Unknown or unsure

Witnesses or third parties who may have information regarding the alleged sex discrimination or sex-based harassment:

Was the alleged Sex Discrimination or Sex-Based Harassment (circle all that apply):

- Rape (vaginal, oral, and/or anal penetration without consent)
- Sexual assault with an object
- Fondling
- Dating violence
- Domestic violence
- Stalking
- Something a University employee asked you to do of a sexual nature in return for a grade, promotion, aid, benefit, or service
- Unwelcome sex-based conduct that was substantially severe or pervasive and impacted your education or employment
- Sex discrimination other than sex-based harassment
- Other (please describe below)

Add any and all other details that are important and that you are comfortable in sharing. Details about the situation, timing, and setting can be very helpful.

-

Wingate University ID # of Complainant: _____

Signature of the Complainant: _____

Your phone number so that we can contact you for follow up if necessary: _____

