

# Title IX and Clery Compliance Advisor Training



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# 2020 Title IX Regulations Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

- ❖ A UNCP employee conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct (quid pro quo);
- ❖ Unwelcome conduct determined by a reasonable person to be **so severe, pervasive AND objectionably offensive** that it effectively denies a person equal access to a UNCP education program or activity; or
- ❖ Dating violence, domestic violence, and stalking, and sexual assault as defined by the Clery Act (VAWA).

# Title IX & VAWA Investigatory Issues



Sexual Harassment



Sexual Assault & Other  
Forms of Sexual Violence

# Actual Knowledge

“it is a recipient’s own misconduct – not the sexually harassing behavior of employees, students, or other third parties – that subjects the recipient to liability in a private lawsuit under Title IX, and the recipient cannot commit its own misconduct unless the recipient first knows of the sexual harassment that needs to be addressed.” RF, pg. 47



Notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any UNCP official who has authority to institute corrective measures on behalf of UNCP is notice that will trigger the university to take action in compliance with the Office for Civil Rights.

# Jurisdiction

- ❖ The locations, events, or circumstances of UNCP's education programs and activities, which UNCP exercises substantial control over both the respondent and the context in which the sexual harassment occurs



- ❖ Includes any building owned or controlled by a student organization that is officially recognized by UNCP.

# Other forms of Sexual Harassment

## Sex-Based but not Title IX

- Bullying
- Coercion
- Discrimination
- Harassment ~ Sexual
- Harassment ~ Hostile Environment
- Harassment ~ Quid Pro Quo
- Harassment ~ Retaliation
- Hazing
- Intimidation
- Sexual Exploitation

# Complaint Resolution Process

For faculty, staff, and student cases

- ❖ Title IX Cases: Formal Grievance Process
- ❖ All other sex based harassment and discrimination Cases: Inclusive Complaint Process

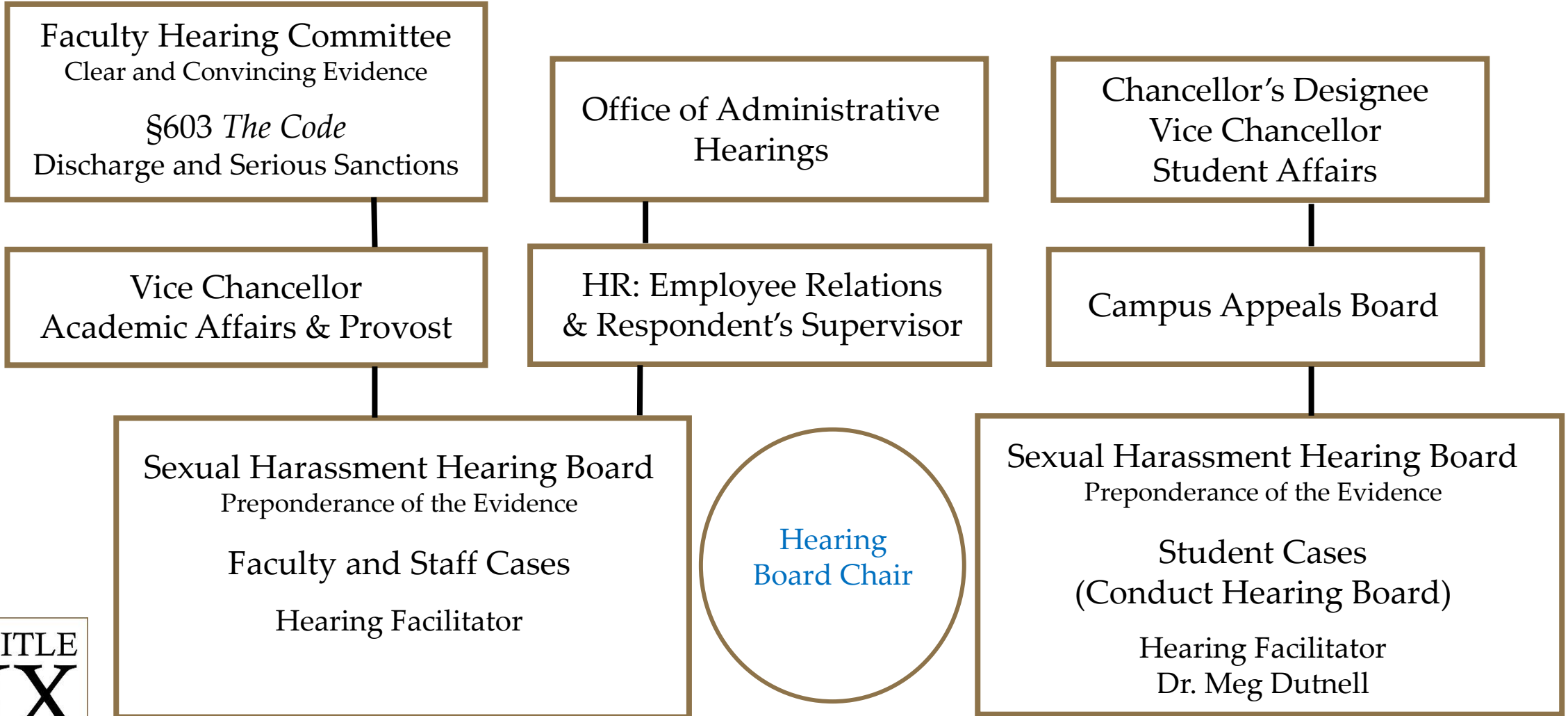
# Major Gatekeeping Guideposts



**NOTICE**      Initial Assessment      Notice of Investigation & Allegation      Comprehensive Investigation      Hearing and Determination      Sanction(s)      Appeal(s)



# Hearing Boards and Appeal Boards



# Hearing



Cross-Examination of Parties  
by Advisors



Advisor  
Attorney/Non-Attorney Advocate  
Support Person

Hearing Panel Chair: decides all relevancy issues in real time

# Standard of Proof Preponderance of the Evidence and Clear and Convincing

Evidence which shows that the fact to be proven is more probable than not (50.1%)



Evidence presented must be highly and substantially more probable to be true than not

# Important Definitions...



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# VAWA Crimes

1. Dating Violence
2. Domestic Violence
3. Stalking
4. Sexual Assault



These are considered reportable crimes, *even if* the victim does not consider themselves to be a victim.



# Sexual Assault

*sexual contact on the body of another person without his or her **Consent***

*penetration* without that persons consent

threatened, coerced, or forced to engage

against his or her **Will**

while temporarily or permanently incapacitated

stranger or by a person **known by the victim**

married or in a dating relationship



# Consent

*demonstrated by clear actions, words, or writings*

*Freely and voluntarily given*

*Offered and accepted by all parties*

mutually *understood* by all parties involved

*mentally or physically incapacitated or impaired*

*not understand the fact, nature, or extent of the sexual situation*

*Silence does not constitute consent*

Consent is *active*, not passive

*past* consent does not imply *future* consent

Consent to *some form* of sexual activity is not consent to *any other form* of sexual activity

Consent can be *withdrawn* at any time





# Domestic Violence (to include Dating Violence)

A felony or misdemeanor crime of violence committed by:

- ❖ A current or former spouse or intimate partner of the victim,
- ❖ By a person with whom the victim shares a child in common,
- ❖ By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,
- ❖ By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred,
- ❖ By a person who is or has been in a dating relationship of a romantic nature with the victim
- ❖ By any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ❖ Dating Violence includes, but is not limited to, **sexual or physical abuse or the threat of such abuse.**



# Stalking

Engaging in a *course of conduct* directed at a specific person that would cause a reasonable person to

1. Fear for the person's safety or the safety of others; or
2. Suffer substantial emotional distress

For Clery purposes:

A "course of conduct" means two or more acts, including, but not limited to, acts 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.



# Stalking...

- ❖ Does not have to be sex/gender related
- ❖ Most people, especially students, do not recognize stalking behaviors and may not realize they are within a “course of conduct.”



Retaliation



# Title IX Coordinator & Clery Compliance Officer, Staff, and Deputy Title IX Coordinators

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Title IX Coordinator  
Clery Compliance Officer  
The Compliance Suite 104  
Oxendine Administrative Bldg.  
910.521.6281  
910.674.0080 (Cell)



## **Dani Evans**

Campus Investigator  
The Compliance Suite 104  
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## **Dr. Art Mallory**

Deputy Title IX Coordinator, Student Affairs  
Assoc. Vice Chancellor for Student Affairs  
910.521.6226

## **Dr. Nicolette Campos**

Deputy Title IX Coordinator, Human Resources  
Director of Employee Relations and Workforce  
Development  
910.775.4341

## **Dr. Scott Billingsley**

Deputy Title IX Coordinator, Academic Affairs  
Assoc. Vice Chancellor for Academic Affairs  
910.521.6224

## **Christina Chow**

Director of Compliance & Senior Woman  
Administrator (SWA)  
910.775.4246



# Title IX and Clery Reporting

**In case of emergency,  
call X-6235 or 911**



## **UNCP Contact numbers:**

Title IX Coordinator  
Clery Compliance Officer  
The Education Building, Room 334  
Office: 910.521.6281  
Cell: 910.674.0080

Campus Law Enforcement  
910.521.6235

Office of Title IX and Clery Compliance  
[www.uncp.edu/titleixclery](http://www.uncp.edu/titleixclery)  
[titleixcoordinator@uncp.edu](mailto:titleixcoordinator@uncp.edu)



Questions?





Thank You