



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

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

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Related Policies:

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

Additional References:

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

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Table of Contents

1. Overview	5
2. Notice/Complaint	5
3. Collateral Misconduct	5
4. Initial Evaluation	5
5. Dismissal	7
6. Appeal of Dismissal.....	8
7. Emergency Removal/Interim Suspension of a Student	9
8. Placing an Employee on Leave	10
9. Counter-Complaints	10
10. Advisors in the Resolution Process.....	10
11. Resolution Options Overview	12
12. Hearing Resolution Process	16
13. Resolution Timeline	18
14. Ensuring Impartiality.....	18
15. Investigator Appointment	19
16. Witness Role and Participation in the Investigation	19
17. Interview Recording	19
18. Evidentiary Considerations	19
19. Respondent Admits Responsibility.....	20
20. Investigation	20
21. Live Hearing Requirements.....	22
22. Hearing Notice	24
23. Witness Participation	24
24. Pre-Hearing Meetings.....	25
25. Hearing Procedures for 106.45 (Employees) and 106.46 (Students)	26
26. Deliberation and Determination.....	28
27. Sanctions.....	29
28. Employee Sanctions/Responsive/Corrective Actions.....	31
29. Notice of Outcome.....	32
30. Withdrawal or Resignation Before Complaint Resolution	32
31. Appeal of the Determination.....	33
32. Long-Term Remedies/Other Actions	35
33. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms ...	36
34. Recordkeeping.....	36
35. Accommodations and Support During the Resolution Process.....	37

36. Revision of these Procedures 38
APPENDIX A: DEFINITIONS 39

UNC Pembroke Resolution Process for Alleged Violations of the Prohibited Sex Discrimination, Sex-Based Harassment, and Retaliation (Hereinafter the “Resolution Process”)

1. Overview

- 1.1 UNC Pembroke will act on any Notice, Complaint, or Knowledge of a potential violation of the UNCP Title IX Policy (“the Policy”) that the Title IX Coordinator¹ or any other Mandated Reporter receives by applying the Resolution Process below.
- 1.2 The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, retaliation, or Other Prohibited Conduct involving students, employees, or third parties.

2. Notice/Complaint

- 2.1 Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine the university’s next steps. The Title IX Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

3. Collateral Misconduct

- 3.1 Collateral misconduct is defined to include potential violations of other UNC Pembroke policies not incorporated into the UNC Title IX Policy that occur in conjunction with alleged violations of the Policy or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, which will be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator may consult with university officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input on what charges should be filed. Still, the exercise of collateral charges under these procedures is within the discretion of the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

4. Initial Evaluation

- 4.1 The Title IX Coordinator conducts an initial evaluation, typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.² The initial evaluation typically includes:
 - 4.1.1 Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - 4.1.1.1 If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the [dismissal provision](#) in these procedures. It may then be referred to another process, if applicable.

¹ Anywhere this procedure indicates “Title IX Coordinator,” UNC Pembroke may substitute a trained designee.

² If circumstances require, the General Counsel or Title IX Coordinator will designate another person to oversee the Resolution Process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

- 4.1.2 Determining whether UNC Pembroke has jurisdiction over the reported conduct, as defined in the Policy.
 - 4.1.2.1 If the conduct is not within UNC Pembroke jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate university office for resolution.
- 4.1.3 Offering and coordinating supportive measures for the Complainant.
- 4.1.4 Offering and coordinating supportive measures for the Respondent, as applicable.
- 4.1.5 Notifying the Complainant or the person who reported the allegation(s) of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- 4.1.6 Determining whether the Complainant wishes to initiate a Complaint.
- 4.1.7 Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.
- 4.1.8 **Helping a Complainant to Understand Resolution Options**
 - 4.1.9 If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting an intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
 - 4.1.9.1 a supportive and remedial response and
 - 4.1.9.2 Informal Resolution, or
 - 4.1.9.3 the Resolution Process described below.
- 4.2 The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.
- 4.3 If the Complainant elects for the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that the university has jurisdiction, they will route the matter to the appropriate Campus Investigator, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.
- 4.4 If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer it accordingly.
- 4.5 If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator). However, the Complainant can elect to initiate one later if desired.

4.6 Title IX Coordinator Authority to Initiate a Complaint

4.6.1 If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the university cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- 4.6.1.1 The Complainant's request not to initiate a Complaint.
 - 4.6.1.2 The Complainant's reasonable safety concerns regarding initiating a Complaint.
 - 4.6.1.3 The risk that additional acts of discrimination would occur if a Complaint is not initiated.
 - 4.6.1.4 The severity of the alleged 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.
 - 4.6.1.5 The age and relationship of the Parties, including whether the Respondent is a UNC Pembroke employee;
 - 4.6.1.6 The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
 - 4.6.1.7 The availability of evidence to assist a Hearing Board in determining whether discrimination occurred;
 - 4.6.1.8 Whether UNC Pembroke could end the alleged discrimination and prevent its recurrence without initiating its resolution process.
- 4.7 If deemed necessary, the Title IX Coordinator may consult with appropriate UNC Pembroke employees and/or conduct a violence risk assessment³ to aid their determination whether to initiate a Complaint.
- 4.8 When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

5. Dismissal

- 5.1 The TIXCC Office **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:
- 5.1.1 The TIXCC Office is unable to identify the Respondent after taking reasonable steps to do so
 - 5.1.2 UNC Pembroke no longer enrolls or employs the Respondent

³ See detailed information regarding Violence Risk Assessment in [Appendix G](#).

- 5.1.3 A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
- 5.1.4 UNC Pembroke determines the conduct alleged in the Complaint would not constitute a Policy violation if proven
- 5.2 Upon any dismissal, the TIXCC Office will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, UNC Pembroke will also notify the Respondent of the dismissal.
- 5.3 This dismissal decision is appealable by any party.

6. Appeal of Dismissal

- 6.1 The Complainant may appeal a dismissal of their Complaint to the Title IX Coordinator. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.
- 6.2 The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.
- 6.3 Throughout the dismissal appeal process, the TIXCC Office will:
 - 6.3.1 Implement dismissal appeal procedures equally for the Parties.
 - 6.3.2 Title IX Coordinator, who did not take part in an investigation of the allegations or dismissal of the Complaint, will review the appeal request(s).
 - 6.3.3 Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
 - 6.3.4 Notify the Parties of the result of the appeal and the rationale for the result.
- 6.4 The grounds for dismissal appeals are limited to:
 - 6.4.1 Procedural irregularity that would change the outcome.
 - 6.4.2 New evidence that would change the outcome and was not reasonably available when the dismissal was decided.
 - 6.4.3 The Title IX Coordinator or Campus Investigator had a conflict of interest or bias for or against complainants, respondents, or the individual Complainant or Respondent that would change the outcome.
- 6.5 The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the petition with all other Parties

and provide three (3) business days for other Parties and the Title IX Coordinator to respond. At the conclusion of the response period, the Title IX Coordinator will review the appeal request and any response provided by the other Parties.

- 6.6 If the Request for Appeal does not provide information that meets the grounds in this Policy, the Title IX Coordinator will deny the request, and the Parties and their Advisors will be notified in writing of the denial and the rationale.
- 6.7 If any asserted grounds in the appeal satisfy the grounds described in this Policy, then the Title IX Coordinator will notify all Parties and their Advisors of their decision and rationale in writing. The effect will be to reinstate the Complaint.
- 6.8 In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Title IX Coordinator has seven (7) business days to review and decide on the appeal. However, extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.
- 6.9 Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification.
- 6.10 The Title IX Coordinator may consult with the General Counsel on questions of procedure or rationale for clarification if needed. The Title IX Coordinator will maintain documentation of all such consultations.

7. Emergency Removal/Interim Suspension of a Student

- 7.1 UNC Pembroke may emergency remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or any time during the Resolution Process. Prior to an emergency removal, UNC Pembroke will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action. Students accused of different forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.
- 7.2 When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, including a written rationale and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible after that to allow them to show cause why the removal/action should not be implemented or should be modified.
- 7.3 This meeting is not a hearing on the merits of the allegation(s) but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be waived. A student can later request a meeting to show why they are no longer an imminent and severe threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable for them to do so.

- 7.4 The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.
- 7.5 An emergency removal or interim suspension may be affirmed, modified, or lifted due to a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

8. Placing an Employee on Leave

- 8.1 When the Respondent is an employee or a student employee accused of misconduct during their employment, existing provisions <<link>> for interim action are typically applicable instead of the above emergency removal process.

9. Counter-Complaints

- 9.1 UNC Pembroke is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although the university permits counter-complaint filing, the Title IX Coordinator will use an initial evaluation described above to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may violate the Policy.
- 9.2 Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

10. Advisors in the Resolution Process

10.1 Who Can Serve as an Advisor?

- 10.1.1 The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual the party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.⁴
- 10.1.2 The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from the university, the TIXCC Office will have trained the Advisor and familiarized them with the TIXCC Resolution Process.
- 10.1.3 UNC Pembroke cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney. Still, the other party does not or cannot afford an attorney, the university is not obligated to provide an attorney to advise that party.
- 10.1.4 A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to notify the Title IX Coordinator if they change

⁴ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being a Title IX Coordinator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Board(s).

Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

- 10.1.5 UNC Pembroke may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and will be granted equitably to all Parties.
- 10.1.6 If a party requests that all communication be made through their Advisor instead of to the party, the TIXCC Office will agree to copy the party and their Advisor on all communications.
- 10.1.7 Advisors appointed by the institution cannot be Confidential Employees. Although they will not be asked to disclose details of their interactions with their advisees to university officials absent an emergency, they are still reminded of their Mandated Reporter responsibilities.
- 10.1.8 Advisors are expected to communicate with the TIXCC Office about procedural issues that affect the investigation and hearing process.

10.2 **Advisor's Role in the Resolution Process**

- 10.2.1 Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.
- 10.2.2 The Parties are expected to ask and respond to questions on their behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For lengthier or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.
- 10.2.3 Under UNC Pembroke Policy, Advisors or attorneys can fully represent their advisees or clients in the Resolution Process, including all meetings, interviews, and hearings. Although UNC Pembroke prefers to hear from Parties directly, in these circumstances, Parties are entitled to have their chosen representatives provide evidence.

10.3 **Records Shared with Advisors**

- 10.3.1 Advisors are entitled to the same opportunity as their advisee to access relevant evidence and the same written investigation report that accurately summarizes this evidence.
- 10.3.2 Advisors are expected to maintain the confidentiality of the records the university shares with them, per Appendix C of the Policy addressing Confidentiality. Advisors may not disclose any university work product or evidence the TIXCC Office obtained solely through the Resolution Process for any purpose not explicitly authorized by UNC Pembroke.
- 10.3.3 Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The TIXCC Office may decline to share materials with any Advisor who has not executed the NDA. The university may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by UNC Pembroke's confidentiality expectations.

10.4 **Advisor Expectations**

- 10.4.1 UNC Pembroke generally expects an Advisor to adjust their schedule to allow them to attend university meetings/interviews/hearings when planned but may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend if doing so does not cause an unreasonable delay.
- 10.4.2 UNC Pembroke may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.
- 10.4.3 All Advisors are subject to the same UNC Pembroke policies and procedures, whether they are attorneys or not and whether they are selected by a party or appointed by the TIXCC Office. Advisors are expected to advise without disrupting proceedings.

10.5 **Advisor Policy Violations**

- 10.5.1 Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with UNC Pembroke's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended or other appropriate measures implemented, including the university requiring the party to use a different Advisor or providing a different TIXCC Office-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

11. Resolution Options Overview

- 11.1 This Resolution Process, consisting of Informal Resolution or Hearing Resolution, is UNC Pembroke's chosen approach to addressing all forms of sex discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Conduct under the Policy. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.
- 11.2 Resolution proceedings are confidential. All individuals present during the Resolution Process are expected to maintain the confidentiality of the proceedings per UNC Pembroke Policy.
- 11.3 **Informal Resolution**
 - 11.3.1 To initiate Informal Resolution, a Complainant or Respondent may request the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties in writing. The TIXCC Office will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.
 - 11.3.2 Before initiation of an Informal Resolution process, UNC Pembroke will provide the Parties with a NOIA that explains:
 - 11.3.2.1. The allegations.
 - 11.3.2.2. The requirements of the Informal Resolution process.

- 11.3.2.3. prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and initiate or resume the university Resolution Process.
- 11.3.2.4. That the Parties' agreement to a resolution after the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- 11.3.2.5. The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- 11.3.2.6. What information the university will maintain, and whether and how it could disclose such information for use in its Resolution Process.
- 11.3.3. UNC Pembroke offers four categories of Informal Resolution:
 - 11.3.3.1 **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
 - 11.3.3.2 **Educational Conversation.** When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
 - 11.3.3.3 **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and UNC Pembroke are agreeable to the resolution terms.
 - 11.3.3.4 **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.
- 11.3.4 The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Hearing Board, or Appeal Hearing Board.
- 11.3.5 It is not necessary to pursue Informal Resolution first in order to pursue a Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Hearing Resolution Process.
- 11.3.6 The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Hearing Process, should Informal Resolution not be successful, unless agreed to by all Parties.
- 11.3.7 If an investigation is already underway, the Title IX Coordinator has the discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.
- 11.3.8 **Categories of Informal Resolution**

- 11.3.8.1 **Supportive Resolution.** The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant’s access to the university’s education program and activity. Such measures can be modified as the Complainant’s needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options and the Title IX Coordinator does not initiate a Complaint.
- 11.3.8.2 **Educational Conversation.** The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent’s decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.
- 11.3.8.3 **Accepted Responsibility**⁵. The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.
- 11.3.8.3.1 If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and the university are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of UNC Pembroke Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate Title IX Coordinator(s), as necessary.
- 11.3.8.3.2 This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.
- 11.3.8.3.3 When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

⁵In [Section 19](#) below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 19, in contrast, is unilateral. Neither the Complainant nor the Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Hearing Board, if they choose to. No Complainant approval is sought or needed. Under Section 19, the outcome involves sanctioning imposed by the university, rather than an agreement to self-sanction, as outlined in this section.

- 11.3.8.4 **Alternative Resolution.** The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate university officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.
- 11.3.8.4.1 The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:
- The Parties' amenability to alternative resolution
 - Likelihood of potential resolution, considering any power dynamics between the Parties
 - The nature and severity of the alleged misconduct
 - The Parties' motivation to participate
 - Civility of the Parties
 - Results of a violence risk assessment/ongoing risk analysis
 - Respondent's disciplinary history
 - Whether an emergency removal or other interim action is needed
 - Skill of the alternative resolution facilitator with this type of Complaint
 - Complaint complexity
 - Emotional investment/capability of the Parties
 - Rationality of the Parties
 - Goals of the Parties
 - Adequate resources to invest in alternative resolution (e.g., time, staff)
- 11.3.8.4.2 The Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.
- 11.3.8.4.3 Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.
- 11.3.8.5. The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.
- 11.3.8.6. If an Informal Resolution option is not available or selected, the TIXCC Office will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

12. Hearing Resolution Process

12.1 **Resolution Process Pool.** The Resolution Process relies on the Title IX Coordinator, TIXCC Office, and Campus Partners (“the Pool”) to carry out the process.⁶

12.2 Pool Member Roles

12.2.1 Members of the Pool are trained annually and can serve in the following roles at the discretion of the Title IX Coordinator:

12.2.1.1. Appropriate intake of and initial guidance pertaining to Complaints

12.2.1.2. Advisor to Parties

12.2.1.3. Informal Resolution Facilitator

12.2.1.4. Perform or assist with initial evaluation

12.2.1.5. Investigator

12.2.1.6. Hearing Facilitator

12.2.1.7. Hearing Board for challenges to emergency removal and supportive measures

12.2.1.8. Hearing Board

12.2.1.9. Appeal of Dismissal Hearing Board

12.2.1.10. Appeal Hearing Board

12.3. Pool Member Appointment

12.3.1 The Title IX Coordinator appoints the Pool, which acts with independence and impartiality.⁷ Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, UNC Pembroke can also designate permanent roles for individuals in the Pool.

12.4 Training (see Appendix G in the UNCP Title IX Policy for details of training for Pool Members)

12.5 **Notice of Investigation and Allegations (NOIA)**

12.5.1 Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and

⁶ External, trained third-party neutral professionals may also be used to serve in Pool roles.

⁷ This does not preclude the TIXCC Office from having all members of the Pool go through an application and/or interview/selection process.

more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

12.5.2 The NOIA typically includes:

- 12.5.2.1. A meaningful summary of all allegations
- 12.5.2.2. The identity of the involved Parties (if known)
- 12.5.2.3. The precise misconduct being alleged
- 12.5.2.4. The date and location of the alleged incident(s) (if known)
- 12.5.2.5. The specific policies/offenses implicated
- 12.5.2.6. A description of, link to, or copy of the applicable procedures
- 12.5.2.7. A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- 12.5.2.8. The name(s) of the Investigator(s), along with a process to notify the Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- 12.5.2.9. A statement that the university presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- 12.5.2.10. A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- 12.5.2.11. A statement that retaliation is prohibited
- 12.5.2.12. Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share university work product obtained through the Resolution Process
- 12.5.2.13. A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- 12.5.2.14. A statement informing the Parties that UNC Pembroke's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- 12.5.2.15. Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- 12.5.2.16. A link to the TIXCC VAWA Brochure
- 12.5.2.17. An instruction to preserve any evidence that is directly related to the allegations

- 12.5.3. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official UNC Pembroke records, or emailed to the Parties' university-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

13. Resolution Timeline

- 13.1 The TIXCC Office will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.
- 13.2 Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.
- 13.3 If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the TIXCC Office reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.
- 13.4 The TIXCC Office may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The TIXCC Office will promptly resume its Resolution Process as soon as feasible. During such a delay, UNC Pembroke will implement and maintain supportive measures for the Parties as deemed appropriate.
- 13.5 The TIXCC Office's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.
- 13.6 The TIXCC Office will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

14. Ensuring Impartiality

- 14.1 Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Hearing Board(s), may neither have nor demonstrate a conflict of interest or bias for a party generally or for a specific Complainant or Respondent.
- 14.2 The Title IX Coordinator will vet the assigned Investigator(s), Hearing Board(s), and Appeal Hearing Boards for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the

impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the General Counsel Office.

- 14.3 The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

15. Investigator Appointment

- 15.1 Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to UNC Pembroke's community.

16. Witness Role and Participation in the Investigation

- 16.1 Employees (not including Complainant and Respondent) are required to cooperate with and participate in the TIXCC investigation and Resolution Process. Student witnesses and witnesses from outside the university community cannot be required to participate but are encouraged to cooperate with TIXCC investigations and to share what they know about a Complaint.
- 16.2 Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. The university will take appropriate steps to ensure the security and privacy of remote interviews.
- 16.3 Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

17. Interview Recording

- 17.1 It is standard practice for Investigators to create record of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.
- 17.2 All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

18. Evidentiary Considerations

- 18.1 The Investigator(s) and the Hearing Board(s) will only consider evidence that is deemed relevant and not otherwise impermissible.
- 18.2 Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

- 18.3 Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.
- 18.4 The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.
- 18.5 Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.
- 18.6 Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

19. Respondent Admits Responsibility

- 19.1 At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Hearing Board is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

20. Investigation

- 20.1 All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.
- 20.2 After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.
- 20.3 The TIXCC Office may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.
- 20.4 The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:
- 20.4.1 Determine the identity and contact information of the Complainant.
- 20.4.2 Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.

- 20.4.3 Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- 20.4.4 Work with the Title IX Coordinator, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- 20.4.5 Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- 20.4.6 When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- 20.4.7 Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- 20.4.8 Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- 20.4.9 Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- 20.4.10 Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- 20.4.11 Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- 20.4.12 Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- 20.4.13 Provide the Parties with regular status updates throughout the investigation.
- 20.4.14 Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- 20.4.15 Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- 20.4.16 Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all relevant evidence.
- 20.4.17 Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.

20.4.18 The Investigator may share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.

21. Live Hearing Requirements

21.1. The following provisions apply to a live hearing:

21.1.1 **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Hearing Board and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.

21.1.1.1 The Parties may make a request to the Hearing Facilitator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Hearing Facilitator retains discretion to determine whether the hearing will occur in person or via video technology.

21.1.1.2 All hearings will be recorded, and Parties may request a copy of the recording from the Hearing Facilitator following the live hearing.

21.1.1.3 No unauthorized recordings are permitted.

21.1.2 **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet UNC Pembroke's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

21.1.3 **Hearing Participants.** Persons who may be present for a hearing include the Hearing Board members, Hearing Facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Hearing Board. Witnesses are present only during their portion of the testimony.

21.1.4 **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that UNC Pembroke appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.

21.1.4.1. During the pre-hearing meeting with the Hearing Facilitator and the live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, or family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.

21.1.4.2. Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.

21.1.4.3. During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.

- 21.1.4.4. If the party does not have an Advisor, the Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- 21.1.5 **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Hearing Facilitator that the Hearing Board will review during any sanction determination.
- 21.1.5.1 Upon receipt of an impact and/or mitigation statement, the Hearing Facilitator will review the impact/mitigation statement to determine whether any immediate needs exist.
- 21.1.5.2 The Hearing Facilitator will only provide the impact statements to the Hearing Board if the Hearing Board determines that the Policy has been violated. When the Hearing Facilitator shares the impact statements with the Hearing Board, they will also be shared with the Parties.
- 21.1.6 **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- 21.1.7 **Conflicts of Interest or Bias.** The Hearing Board must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
- 21.1.7.1 Hearing Board members must recuse themselves if such bias or conflict of interest exists.
- 21.1.7.2 If any Hearing Board member believes there is possible conflict of interest or bias, they will consult with the Hearing Facilitator about possible recusal or removal.
- 21.1.7.3 The Parties may raise challenges that the Hearing Board is biased or has a conflict of interest. The Parties must raise challenges with the Hearing Facilitator within two (2) business days of receiving the hearing notice.
- 21.1.7.4 The Hearing Facilitator will only remove and replace a Hearing Board member in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
- 21.1.7.5 If a Hearing Board member recuses themselves as the result of a conflict of interest or bias, or is removed, the Hearing Facilitator will promptly appoint a new Hearing Board member who does not have a conflict of interest or bias and notify the Parties accordingly.
- 21.1.8. Evidence Provided to the Hearing Board and Parties.**
- 21.1.8.1. The Hearing Board will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.

21.1.8.2. The Parties will be provided with electronic copies of all the materials provided to the Hearing Board as part of the hearing notice, unless those materials have already been provided.⁸

22. Hearing Notice

22.1. The Hearing Facilitator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

22.1.1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.

22.1.2. The time, date, and location of the hearing.

22.1.3. A description of any technology that will be used to facilitate the hearing.

22.1.4. Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Hearing Board, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

23. Witness Participation

23.1 Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Hearing Board and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without express permission of the Hearing Facilitator. At the discretion of the Hearing Board, a witness may join by phone if no other reasonable alternative is available.

23.2 The Hearing Facilitator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

23.3 If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Hearing Facilitator may reschedule the hearing.

23.4 Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

23.4.1. All Parties and the Hearing Board Chair assent to the new witness's participation in the hearing without remanding the complaint back to the Investigator, and

23.4.2. The Hearing Board Chair deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and

⁸ Hard-copy materials may be provided upon request to the Hearing Facilitator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

- 23.4.3. The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.
- 23.5. If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Hearing Board Chair may, at their discretion, engage in any of the following actions:
- 23.5.1. Delay the hearing.
- 23.5.2. Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements if such statements are submitted.
- 23.5.3. Remand the Complaint back to the Investigator for further investigation or verification.
- 23.5.4. Allow the Parties to review and comment on the testimony of the new witness.
- 23.6. If the evidence is deemed not relevant or impermissible, the Hearing Board may proceed with the hearing absent the new witness's participation.
24. **Pre-Hearing Meetings**
- 24.1 The Hearing Facilitator will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. Any questions or topics submitted will be shared with the Hearing Board Chair, who will consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.
- 24.2 However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on the Hearing Board Chair's pre-hearing decision based on any new information or testimony offered at the hearing. The Hearing Board Chair will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.
- 24.3 The Hearing Facilitator will work with the Parties to finalize a witness list for the hearing, and will notify any witnesses of the hearing's logistics. The Hearing Board Chair, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.
- 24.4 Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor and can be done remotely or as a written communication exchange. The Hearing Facilitator will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

25. Hearing Procedures for 106.45 (Employees) and 106.46 (Students)

25.1. Evidentiary Considerations

25.1.1. The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Hearing Board Chair for relevance. If deemed relevant and not impermissible, the Parties and the Hearing Board Chair must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Hearing Board Chair may proceed with the hearing absent the new evidence.

25.1.2. The new relevant evidence will be admitted to the record if:

25.1.2.1. All Parties and the Hearing Board Chair assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigator, and

25.1.2.2. The evidence is not duplicative of evidence already in the record, and

25.1.2.3. It is not impermissible, and

25.1.2.4. The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

25.1.3. If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Hearing Board Chair may, at their discretion, engage in any of the following actions:

25.1.3.1. Delay the hearing.

25.1.3.2. Provide the Parties with at least five (5) business days to review the relevant evidence.

25.1.3.3. Remand the Complaint back to the Investigator for further investigation or analysis.

25.1.3.4. Allow the Parties to review and comment on the new evidence.

25.1.4. If the evidence is deemed not relevant or impermissible, the Hearing Board may proceed with the hearing without allowing the new evidence.

25.2 Collateral Misconduct

25.2.1. The Hearing Board has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the discrimination, harassment, retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

25.3. Joint Hearings

25.3.1. In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

25.3.2. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

25.4. Introductions and Hearing Procedure Explanation

25.4.1. The Hearing Board Chair will explain the hearing procedures and introduce the participants. The Hearing Board will answer any procedural questions prior to and as they arise throughout the hearing.

25.5. Investigator Presentation of Final Investigation Report

25.5.1. The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Hearing Board and then by the Parties. The Investigator may attend the duration of the hearing or excuse themselves after their testimony.

25.6. Testimony and Questioning

25.6.1. The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Hearing Board Chair. The Hearing Board Chair will facilitate questioning of the Parties and witnesses first by the Hearing Board and then by the Parties through their Advisors.

25.6.2. All questions must be directed toward and asked through the Hearing Board Chair and are subject to a relevance determination before they are asked. The Hearing Board Chair will determine the method by which the Parties will submit their questions to the Hearing Board for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

25.6.3. The Hearing Board Chair will explain any decision to exclude a question as not relevant or to reframe it for relevance.

25.6.4. The Hearing Board Chair will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Hearing Board Chair has final say on all questions and determinations of relevance and appropriateness. The Hearing Board may consult with legal counsel on any questions of admissibility.

25.6.5. The Hearing Board Chair then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

25.6.6. If the Parties raise an issue of bias or conflict of interest of an Investigator or Hearing Board member at the hearing, the Hearing Board Chair may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Hearing Board should not permit irrelevant questions that probe for Investigator bias.

25.6.7. The Hearing Board will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Hearing Board and the Parties, and the witnesses will then be excused.

25.7. **Refusal to Submit to Questioning and Inferences**

25.7.1 Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Hearing Board can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Hearing Board may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

25.7.2 An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

25.8. **Hearing Recordings**

25.8.1. UNC Pembroke records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

25.8.2. The Hearing Board, the Parties, their Advisors, Appeal Hearing Boards, and other appropriate UNC Pembroke officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

26. **Deliberation and Determination**

26.1. After closing statements from the Parties, the Hearing Board will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. A simple majority vote is required to determine the finding. Deliberations are not recorded.

26.2. When there is a finding of responsibility for one or more of the allegations, the Hearing Board may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining the appropriate sanction(s). The Hearing Facilitator will ensure that any submitted statements are exchanged between the Parties if the Hearing Board views them. Impact/mitigation statements do not influence the finding; they only potentially influence the sanctions.

26.3. The Hearing Board Chair will then prepare and provide the Hearing Facilitator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

26.4. This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Hearing Facilitator within ten (10) business days from the conclusion of the hearing unless the

Hearing Facilitator grants an extension. The Hearing Facilitator will notify the Parties of any extension.

27. Sanctions

27.1 Factors the Hearing Board may consider when determining sanctions and responsive actions include, but are not limited to:

27.1.1. The nature, severity of, and circumstances surrounding the violation(s)

27.1.2. The Respondent's disciplinary history

27.1.3. The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation

27.1.4. The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation

27.1.5. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community

27.1.6. The impact on the Parties

27.1.7. The Respondent's acceptance of responsibility

27.1.8. Any other information deemed relevant by the Hearing Board(s)

27.2 The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

27.3 The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

27.4 **Student Sanctions**

27.4.1 The following are the common sanctions that may be imposed upon students singly or in combination:

27.4.1.1 *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any UNC Pembroke policy, procedure, or directive will result in more severe sanctions/responsive actions.

27.4.1.2 *Required Counseling*: A mandate to meet with and engage in either UNC Pembroke-sponsored or external counseling to better comprehend the misconduct and its effects.

27.4.1.3 *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations.

27.4.1.4 *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional

policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- 27.4.1.5 *Suspension*: Separation from the institution, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript.
- 27.4.1.6 *Expulsion*: Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- 27.4.1.7 *Withholding Diploma*: UNC Pembroke may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- 27.4.1.8 *Revocation of Degree*: While very rarely exercised, UNC Pembroke reserves the right to revoke a degree previously awarded from the university for fraud, misrepresentation, and/or other violation of UNC Pembroke policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- 27.4.1.9 *Other Actions*: In addition to, or in place of, the above sanctions, UNC Pembroke may assign any other sanctions as deemed appropriate.

27.5. Student Group and Organization Sanctions

- 27.5.1. The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:
 - 27.5.1.1. *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any UNC Pembroke policy, procedure, or directive will result in more severe sanctions/responsive actions.
 - 27.5.1.2. *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of UNC Pembroke funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.

- 27.5.1.3. *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in UNC Pembroke-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from UNC Pembroke.
- 27.5.1.4. *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- 27.5.1.5. *Loss of Privileges*: Restricted from accessing specific UNC Pembroke privileges for a specified period of time.
- 27.5.1.6. *Other Actions*: In addition to or in place of the above sanctions, UNC Pembroke may assign any other sanctions as deemed appropriate.

28. Employee Sanctions/Responsive/Corrective Actions

28.1. Responsive actions for an employee who has engaged in, discrimination, harassment, and/or retaliation include:

28.1.1 Verbal or Written Warning

28.1.2 Performance Improvement Plan/Management Process

28.1.3 Enhanced Supervision, Observation, or Review

28.1.4 Required Counseling

28.1.5 Required Training or Education

28.1.6 Probation

28.1.7 Denial of Pay Increase/Pay Grade

28.1.8 Loss of Oversight or Supervisory Responsibility

28.1.9 Demotion

28.1.10 Transfer

28.1.11 Shift or schedule adjustments

28.1.12 Reassignment

28.1.13 Delay of (or referral for delay of) Tenure Track Progress

28.1.14 Assignment to a New Supervisor

28.1.15 Restriction of Stipends, Research, and/or Professional Development Resources

28.1.16 Suspension/Administrative Leave with Pay

28.1.17 Suspension/Administrative Leave without Pay

28.1.18 Termination

28.1.19 Other Actions: In addition to or in place of the above sanctions/responsive actions, UNC Pembroke may assign any other responsive actions as deemed appropriate.

29. Notice of Outcome

- 29.1. Within ten (10) business days of the conclusion of the Resolution Process, the Hearing Facilitator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the university is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Hearing Board, supporting the findings to the extent UNC Pembroke is permitted to share under federal or state law.
- 29.2. The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.
- 29.3. The Hearing Facilitator will provide the Parties with the outcome notification simultaneously or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official UNC Pembroke records, or emailed to the Parties' university-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

30. Withdrawal or Resignation Before Complaint Resolution

30.1. **Students**

- 30.1.1. Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from UNC Pembroke, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the TIXCC Office will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.
- 30.1.2. Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, UNC Pembroke will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.
- 30.1.3. When a student withdraws or leaves while the process is pending, the student may not return to UNC Pembroke in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint.

30.1.4. If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to UNC Pembroke unless and until all sanctions, if any, have been satisfied.

30.2. **Employees**

30.2.1. Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with UNC Pembroke with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, UNC Pembroke may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

30.2.2. When an employee resigns, and the Complaint is dismissed, the employee may not return to UNC Pembroke in any capacity. The Office of Human Resources will be notified accordingly. A note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with UNC Pembroke. The records retained by the Title IX Coordinator will reflect that status.

31. **Appeal of the Determination**

31.1 The Title IX Coordinator will designate an Appeal Hearing Board – either a three-member panel or an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Hearing Board(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Title IX Coordinator.

31.2. **Appeal Grounds.** Appeals are limited to the following grounds:

31.2.1. A procedural irregularity that would change the outcome.

31.2.2. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.

31.2.3. The Title IX Coordinator, Investigator(s), or Hearing Board(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.

31.2.4. The Final Determination by the Hearing Board is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).

31.3. **Request for Appeal**

31.3.1 Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

31.3.2 The Request for Appeal will be forwarded to the Appeal Hearing Board for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

- 31.3.3 If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Hearing Board, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.
- 31.3.4 If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Hearing Board will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Hearing Board.
- 31.3.5 All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Board will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Hearing Board will forward all responses, if any, to all Parties for review and comment.
- 31.3.6 The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Hearing Board to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Hearing Board, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.
- 31.3.7 No party may submit any new Requests for Appeal after this time period. The Appeal Hearing Board will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Hearing Board, who will promptly render a decision.

31.4 Appeal Determination Process

- 31.4.1. In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Hearing Board will deliberate as soon as is practicable and discuss the merits of the appeal.
- 31.4.2. Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of proof.
- 31.4.3. An appeal is not an opportunity for the Appeal Hearing Board to substitute their judgment for that of the original Hearing Board merely because they disagree with the finding and/or sanction(s).
- 31.4.4. The Appeal Hearing Board may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

31.5 Appeal Outcome

- 31.5.1. An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Hearing Board with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the

original Investigator(s) and/or Hearing Board or the Title IX Coordinator (as in cases of bias), the Appeal Hearing Board may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Hearing Board roles.

- 31.5.2. A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which UNC Pembroke is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent UNC Pembroke is permitted to share under federal or state law.
- 31.5.3. Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address s indicated in official institutional records, or emailed to the Parties’ UNC Pembroke-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.
- 31.5.4. Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- 31.5.5. If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five (5) available appeal grounds.

31.6. **Sanction Status During the Appeal**

- 31.6.1. Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.
- 31.6.2. If any of the sanctions are to be implemented immediately post-determination but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

32. **Long-Term Remedies/Other Actions**

- 32.1. Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or UNC Pembroke community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.
- 32.2. These remedies/actions may include, but are not limited to:
 - 32.2.1. Referral to counseling and health services
 - 32.2.2. Referral to the Employee Assistance Program
 - 32.2.3. Course and registration adjustments, such as retroactive withdrawals

- 32.2.4. Education to the individual and/or the community
- 32.2.5. Permanent alteration of housing assignments
- 32.2.6. Permanent alteration of work arrangements for employees
- 32.2.7. Provision of campus safety escorts
- 32.2.8. Climate surveys
- 32.2.9. Policy modification and/or training
- 32.2.10. Provision of transportation assistance
- 32.2.11. Implementation of long-term contact limitations between the Parties
- 32.2.12. Implementation of adjustments to academic deadlines, course schedules, etc.>>
- 32.3. At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.
- 32.4. When no Policy violation is found, the Title IX Coordinator will address any remedies UNC Pembroke owes the Respondent to ensure no effective denial of educational access.
- 32.5. UNC Pembroke will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair UNC Pembroke's ability to provide these services.
- 33. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms**
- 33.1 All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Hearing Board(s), including the Appeal Panel or Hearing Board or the Informal Resolution agreement.
- 33.2 Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from UNC Pembroke.
- 33.3 Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.
- 33.4 A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.
- 34. Recordkeeping**
- 34.1 For a period of at least seven (7) years following the conclusion of the Resolution Process, UNC Pembroke will maintain records of:

- 34.1.1 Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 34.1.2 Any disciplinary sanctions imposed on the Respondent.
- 34.1.3 Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the university's education program or activity.
- 34.1.4 Any appeal and the result therefrom.
- 34.1.5 Any Informal Resolution and the result therefrom.
- 34.1.6 All materials used to provide training to the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Hearing Boards, Appeal Hearing Boards, Informal Resolution Facilitators, and any person who is responsible for implementing UNC Pembroke's Resolution Process, or who has the authority to modify or terminate supportive measures. UNC Pembroke will make these training materials available for review upon request.
- 34.1.7 All materials used to train all employees consistent with the requirements in the Title IX Regulations.
- 34.2 UNC Pembroke will also maintain any and all records in accordance with federal and state laws.⁹

35. Accommodations and Support During the Resolution Process

35.1 Disability Accommodations

- 35.1.1 UNC Pembroke is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to UNC Pembroke's Resolution Process.
- 35.1.2 Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with the Accessibility Resource Center as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

35.2. Other Support

- 35.2.1. UNC Pembroke will also address reasonable requests for support for the Parties and witnesses, including:
 - 35.2.1.1 Language services/Interpreters
 - 35.2.1.2 Access and training regarding the use of technology throughout the Resolution Process
 - 35.2.1.3 Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

⁹ A model record maintenance and access policy can be found in [Appendix I](#).

36. Revision of these Procedures

- 36.1 These procedures succeed any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. UNC Pembroke reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.
- 36.2 If governing laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.
- 36.3 This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.
- 36.4 These procedures are effective August 1, 2024.

APPENDIX A: DEFINITIONS

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

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

- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
-
- **Hearing Board Chair.** The person or panel accepting or rejecting a submitted appeal request determines whether any appeal grounds are met and directs responsive action(s) accordingly.
- **Hearing Board Member.** The panel reviews evidence, determines relevance, and makes the Final Determination of whether the Policy has been violated and assigns sanctions.
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by UNC Pembroke to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When UNC Pembroke receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A UNC Pembroke employee is obligated by Policy to share Knowledge, Notices, and reports of discrimination, harassment, retaliation, and Other Prohibited Conduct with the Title IX Coordinator.¹⁰
- **Nondiscrimination Team.** The Title IX Coordinator, any deputy Coordinators, and any member of the Resolution Process Pool.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, and Other Prohibited Conduct.
- **Parent.** Any person who has custody or placement of a human being or is seeking custody or placement of a human being.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related to it, or recovery.

¹⁰ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

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

- ***TIXCC Office.*** The Office of Title IX and Clery Compliance
- ***Title IX Coordinator.*** At least one official designated by UNC Pembroke to ensure ultimate oversight of compliance with Title IX and UNC Pembroke’s Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.
- ***Title IX Coordinator.*** At least one official designated by UNC Pembroke to ensure ultimate oversight of compliance with Title IX and UNC Pembroke’s Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.



Direct all questions or concerns regarding this policy to:

Ronette Sutton, Esq.
Director, Title IX and Clery Compliance
Title IX Coordinator
Clery Compliance Officer
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<https://www.uncp.edu/> | www.uncp.edu/titleixclery

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