***New Policy***

***Rescinds and Replaces Sexual Misconduct: Discrimination, Harassment and Sexual Assault Policy (Faculty and Staff)***

***Rescinds and Replaces: Student on Student Sexual Misconduct Policy (Students)***

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|   | **NORTH CAROLINA A&T STATE UNIVERSITY** **CHAPTER 200 - EQUAL OPPORTUNITY AND NONDISCRIMINATION** **INTERIM UNIVERSITY POLICY 207, SEXUAL HARASSMENT, DISCRIMINATION, AND MISCONDUCT**  |

**SECTION 207.1 POLICY STATEMENT**

This policy defines conduct prohibited under Title IX (“Prohibited Conduct”) including, sex or gender based discrimination or harassment, sexual assault, sexual exploitation, stalking, and intimate partner violence and outlines general provisions the university will follow with respect to handling allegations of Prohibited Conduct or related claims of retaliation to comply with Title IX. Specific procedures relating to Title IX complaint investigation and resolution process are contained in Definitions-Supplement A to University Policy 207, Sexual Harassment, Discrimination, and Misconduct Policy [hyperlink].

# SECTION 207.2 SCOPE

Title IX applies to persons in the United States participating an institution’s education programs or activities (including employment). Education programs or activities include locations, events, or circumstances over which N.C. A&T has exercise substantial control over the party accursed of Prohibited Conduct (the “Respondent”) and the context in which the Prohibited Conduct occurred. This includes, but is not limited to, any building owned or controlled by a student organization that is officially recognized by the University.

This Policy applies when (1) the University has actual knowledge of Prohibited Conduct; (2) the Prohibited Conduct occurred within N.C. A&T’s Education Programs or Activities; and (3) the Prohibited Conduct is against a person in the United States.

Allegations of misconduct that do not meet the definition of Title IX Sexual Harassment or Retaliation (Prohibited Conduct) under this policy may be subject to other university policies including but not limited to the Student Conduct Regulations (hyperlink), the Unlawful Harassment and Discrimination Policy (hyperlink), or the Campus Violence Policy (hyperlink). Members of the N.C. A&T community with questions about whether alleged misconduct falls under this or another policy should contact the Title IX Coordinator by phone at 336-285-3770 or email at TitleIX@ncat.edu.

# SECTION 207.3 PURPOSE

The purpose of this policy is to encourage students, faculty, staff, and members of the University community to report and discuss problems involving sexual harassment, sexual or gender discrimination, or intimate partner violence in order to equitably address allegations and foster an all-inclusive and welcoming culture that values and fosters diversity, tolerance and mutual respect among members of the University community.

# SECTION 207.4 DEFINITIONS

For purposes of this policy, the following definitions shall apply:

(1) “Actual Knowledge” means notice of allegations of Prohibited Conduct to N.C. A&T’s Title IX Coordinator or one of N.C. A&T’s Title IX Designated Officials.

(2) “Complainant” means a person to whom the alleged Prohibited Conduct was directed. At the time of filing a Formal Complaint, a Complainant must be participating in, or attempting to participate in, an N.C. A&T Education Program or Activity.

(3) “Dating Violence” means violence committed by a person--

* who is or has been in a social relationship of a romantic or intimate nature with the victim; and
* where the existence of such a relationship shall be determined based on the consideration of the following factors:
	+ The length of the relationship;
	+ The type of relationship;
	+ The frequency of interaction between the persons involved in the relationship.

(4) “Designated Officials” are N.C. A&T personnel authorized by N.C. A&T to receive notice of complaints of Prohibited Conduct and to institute corrective measures.

(5) “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitation with the victim as a spouse or intimate partner, by a person similarly situation to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family laws of the jurisdiction.

(6) “Education Program or Activity” includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs (including employment), and also includes any building owned or controlled by a student organization that is officially recognized by N.C. A&T.

(7) “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the university investigate the allegation of Title IX Sexual Harassment.

(8) “Prohibited Conduct” for purposes of Title IX and this policy means conduct on the basis of sex that satisfies one or more of the following:

* A university employee conditioning the provision of an aid, benefit, or service on another employee’s or student’s participation in unwelcome sexual conduct (“quid pro quo” sexual harassment by an employee);
* Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an Education Program or Activity at N.C. A&T;
* Sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act,” specifically 20 U.S.C. 1092(f)(6)(A)(v));
* Dating violence as defined in Violence Against Women Act (“VAWA,” specifically 34 U.S.C. 12291(a)(10));
* Domestic Violence as defined in VAWA (34 U.S.C. 12291(a)(8));
* Stalking as defined in VAWA (34 U.S.C. 12291(a)(30); or
* Other sexual misconduct defined below.

(9) “Report” is a disclosure of information by any person to the Title IX Coordinator or an N.C. A&T Title IX Designated Official that includes allegations that may be covered by this policy.

(10) “Respondent” means a person who has been reported to have engaged in conduct that could constitute Title IX Sexual Harassment.

(11) “Retaliation” is intimidating, threatening, coercing, or discriminating against any person for the purpose of interfering with any right or privilege secured by Title IX or this policy because the person made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this policy or the companion regulations.

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

* Rape, defined as the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
* Sodomy is oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
* Sexual Assault With An Object, defined as the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her youth or because of age or because of temporary or permanent mental or physical incapacity;
* Fondling, defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her youth or because of age or because of temporary or permanent mental or physical incapacity;
* Incest, defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
* Statutory Rape, defined as nonforcible sexual intercourse with a person who is under the statutory age of consent.

(13) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

* fear for their own safety or the safety of others; or
* suffer substantial emotional distress.

(14) “Supportive Measures”[hyperlink to web page]means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Education Program or Activity without unreasonably burdening the other party and include measures designed to protect the safety of all parties or the educational environment or to deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The university shall maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of N.C. A&T to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

# SECTION 207.5 PROHIBITED CONDUCT

N.C. A&T prohibits all forms of Sexual Harassment and will promptly and equitably address allegations of Title IX Sexual Harassment when the harassment occurs in the University’s Education Programs or Activities in the United States.

N.C. A&T also prohibits Retaliation under this policy.

# SECTION 207.6 REPORTING TITLE IX PROHIBITED CONDUCT AND FILING A FORMAL COMPLAINT

Any person may report Prohibited Conduct (whether or not the person reporting is the person impacted by the alleged conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Complainants may also file Formal Complaints with the Title IX Coordinator at any time. The procedure to be followed for filing Reports and Formal Complaints is contained in Title IX Investigation Process-Supplement B to University Policy 207, Sexual Harassment, Discrimination, and Misconduct Policy [hyperlink].

# SECTION 207.7 RESPONSE TO ALLEGATIONS OF TITLE IX SEXUAL HARASSMENT

Upon receiving a Report containing allegations of Title IX Sexual Harassment, the Title IX Coordinator will:

* Promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to supportive measures, and explain the Title IX complaint resolution process, including the option for filing a Formal Complaint; and
* Treat Complainants and Respondents equitably with respect to supportive measures.
* If a Formal Complaint is filed, N.C. A&T will provide for a fair and equitable complaint resolution process designed to provide equal access to the University’s Education Programs and Activities (including employment).
* Supportive measures will be made available to affected persons with or without the filing of a Formal Complaint.

# SECTION 207.8 RELATIONSHIP TO OTHER LAWS AND POLICIES

Nothing in this policy is intended to (1) restrict any rights that would otherwise be protected from government action by the First Amendment of the United States Constitution; or (2) deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution; or (3) restrict any other rights guaranteed against government action by the United States Constitution.

Reports of discrimination or harassment on the basis of sex or of a sexual nature that do not meet the definition of Title IX Sexual Harassment in this policy may be prohibited by other policies, including but not limited to, the Unlawful Harassment and Discrimination Policy (hyperlink) or Campus Violence Policy (hyperlink).

Nothing in this policy may be read in derogation of any person’s rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq* or any regulations promulgated thereunder.

**POLICY HISTORY**

Interim Policy Eff. \_\_\_\_\_\_\_\_\_\_\_\_\_, 2020

**AUTHORITY:** Board of Trustees

**POLICY OWNER:** General Counsel

**RESPONSIBLE OFFICE:** Title IX Office

**RESOURCES:**

*Definitions*-Supplement A to University Policy 207, Sexual Harassment, Discrimination, and Misconduct

*Title IX Investigation Process*-Supplement B to University Policy 207, Sexual Harassment, Discrimination, and Misconduct

Campus Violence Policy

Unlawful Harassment and Discrimination Policy

Student Handbook

SHRA Grievance Policy

SHRA Grievance Procedures

EHRA Non-Faculty Grievance Procedure

Faculty Grievance Procedure

[Title IX Regulations (May 19, 2020)](https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)

UNC Policy Manual (“Section 1300.11[R]”)

[U.S. Department of Education, Office of Civil Rights](https://www2.ed.gov/about/offices/list/ocr/index.html)

[Equal Employment Opportunity Commission](https://www.eeoc.gov/)