



NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY

SEC. IV –SAFETY 1.1

STUDENT-ON-STUDENT SEXUAL MISCONDUCT

ADMINISTRATIVE POLICY

All of us at North Carolina A&T State University (hereafter “A&T”) play a vital role in making our campus a respectful and safe place to live, learn, and work. Learn more on our website to identify steps you can take to make a difference. We welcome your involvement in our mission to foster a campus environment that promotes reporting and compassionate responses to sexual harassment and interpersonal violence.

We know that responding to interpersonal violence may be hard, whether you are the person harmed or someone trying to help. The topics of sexual harassment, sexual assault, dating violence, domestic violence, and stalking are not openly discussed in most cultures, belying the frequency with which they occur. Whatever your connection you are not alone as you seek to address the problems you're facing. We are here to assist you.

I. A&T State University Statement of Sexual Values

A&T is committed to providing a learning, working, and living environment that reflects and promotes personal integrity, civility, and mutual respect. Members of the University community have the right to be free from all forms of abuse, assault, harassment, and coercive conduct, including sexual misconduct, as defined in this policy. A&T considers sexual misconduct to be one of the most serious violations of the values and standards of the University. Unwelcome sexual contact of any form is a violation of students’ personal integrity and their right to a safe environment and therefore violates A&T’s values. A&T will not tolerate sexual misconduct in

any form. All members of the University community have an obligation to act responsibly in the realm of sexuality and to recognize and challenge any sexual misconduct.

This policy informs the A&T community of our values and outlines violations of a sexual nature. This policy identifies a student's rights, options, and resources, and describes actions individuals may take if they experience an incident of sexual misconduct, or are accused of sexual misconduct.

A&T recognizes that part of students' development at the University may include learning and understanding themselves as sexual individuals. A&T also respects and upholds the principle that not all students choose to explore their sexual nature or sexuality.

A&T therefore aims to provide an environment that is comfortable and respectful for all students and their choices regarding sex and their sexuality. Understanding and applying this policy to the behavior and behavioral expectations of all members of the community helps to ensure the University's goal of being a safe, open community regarding sexuality. Failure to comply with this policy may result in a complaint of sexual misconduct.

A&T strives to promote an environment where mutual respect, communication, cultural competency, understanding, and awareness are the basis for any sexual behavior or activity. Mutual respect and communication are keys to maintaining each student's personal integrity when engaging in sexual behavior.

II. Community Expectations

A. Mutual Respect:

Treat others as they would like to be treated. In sexual relations this includes respecting your partner (their desires, boundaries, and body) and having open communication with the person(s) with whom you are engaging in sexual contact so that all those involved are comfortable with the activity that may occur and understand the boundaries and needs of those involved.

B. Communication:

Open communication and listening includes understanding one's own needs and desires, discussing these needs and desires with your partner(s), and, in general, creating open communication within the relationship whether it is for a brief encounter or a longer commitment. Verbal communication in sexual situations is almost always the clearest means to communicate. A&T encourages students who choose to engage in sexual behavior to talk with each other clearly about what they want, or do not want, from sex prior to engaging in sexual activity. An environment based on open communications and listening promotes *effective consent*, which the University considers integral to any responsible sexual relationship.

C. Cultural Awareness and Respect:

A&T community is a multi-cultural educational environment where the customs and values of each individual are respected. Although the University's standards regarding behavioral expectations and guidelines apply to all individuals, each person should recognize and respect the variations in the cultural expectations of others and demonstrate civility while engaging in open communication regarding sexual desires and boundaries.

III. Effective Consent is the basis of this policy because effective consent maintains the value that all persons have the right to feel respected, acknowledged, and safe during sexual activity.

Effective Consent is informed, freely and actively given, and is based on rational and reasonable judgment. It requires clear communication between all persons involved in the sexual encounter.

Consent must be communicated verbally. In whatever way consent is communicated, it must be *mutually understandable*.

Consent is *mutually understandable* when a reasonable person would consider the words that you and your partner(s) have expressed demonstrate a desire to do the same thing, at the same time, in the same way, with one another.

In the absence of mutually understandable words, the initiators of sexual contact are responsible for making sure they have obtained effective consent from their partner(s). The initiators must fully understand what their partner(s) wants and does not want sexually.

Consent to one form of sexual activity does not imply consent to another form of sexual activity. Each new sexual act requires new consent. Effective consent has time boundaries.

Consent at one time does not imply consent at any other time.

The existence of a dating/romantic relationship between the persons involved or the fact of a previous sexual relationship does not automatically establish effective consent for future sexual activity.

Consent is not the absence of resistance.

Silence is an inactive behavior and may indicate that something is wrong and the potential for sexual misconduct exists. If a partner is inactive (for example, silent or physically still) sexual activity must stop until both partners have communicated clearly with each other about what, if any, sexual activity is mutually desired.

Effective Consent can never be given by minors, mentally disabled individuals, or by incapacitated persons. A person may be incapacitated as a result of alcohol or other drug use. A person who is unconscious, unaware, or otherwise physically helpless cannot give effective consent to sexual activity.

Effective consent cannot result from force, or threat of force, coercion, fraud, intimidation, or incapacitation. The use of force to obtain sexual access or to induce consent violates this policy whether the force is physical in nature, violent, or involving threats, intimidation or coercion.

Physical force includes but is not limited to: hitting, kicking and restraining. Physical force means someone is acting on you physically and exerting control over you through violence.

Intimidation is an implied threat. It is not as clear or explicit as an overt threat.

Coercion is the application of an unreasonable amount of pressure on someone to the point that they say yes even though they would not have said yes if they had not endured a long period of convincing.

Coercion is evaluated based on the intensity, frequency, and duration of the comments or actions. It exists where a sexual initiator engages in emotional manipulation in order to persuade someone to do something sexual they do not want to do.

Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not consent.

IV. PROHIBITED CONDUCT

Sexual misconduct is a broad term encompassing any sexual behavior that was committed without effective consent. Sexual misconduct may vary in its severity and consists of a range of behaviors. Sexual misconduct can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships. The following descriptions represent sexual behaviors that violate A&T's community standards and values of respect, civility, and personal integrity. These behaviors are serious violations and represent a threat to the safety of the University.

A. Sexual Penetration

Any sexual penetration (anal, oral or vaginal), however slight, with any object or sexual intercourse, *without effective consent*. Sexual penetration includes vaginal or anal penetration by a penis, object, tongue or finger and oral copulation by mouth-to-genital contact or genital or mouth contact.

B. Sexual Touching, Disrobing and/or Exposure

Any intentional sexual touching, however slight, with any object *without effective consent*. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another or any other bodily contact in a sexual manner. Any disrobing of another or exposure to another by another without effective consent.

C. Sexual Misconduct by Incapacity

It is a violation of this policy if the initiator has sex with someone the initiator knows, or reasonably should know, to be incapacitated by alcohol, drugs, sleep, or illness. An incapacitated person is not able to make rational, reasonable judgments and therefore is incapable of giving effective consent. Someone is incapacitated when they cannot understand who, what, when, where, why, or how, with respect to the sexual interaction.

D. Sex Discrimination

Sex Discrimination is unfavorable treatment of a person based on sex or gender when the unfavorable treatment unreasonably interferes with or limits:

A student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., enrollment, academic standing, grades, course assignment, campus housing, extracurricular activities);

Sex Discrimination includes sexual harassment and gender-based harassment, which are defined below. Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex.

Discrimination against an individual because that person is transgender, gay, lesbian or bisexual is unlawful discrimination because of sex. This is also known as gender identity discrimination. An example of gender-identity discrimination is adverse actions taken because of the person's non-conformance with sex-stereotypes.

E. Sexual Harassment

Sexual Harassment is a form of sex discrimination. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communication of a sexual nature when:

- Submission to or rejection of such conduct or communication is a term or condition of education benefits, academic evaluations or opportunities
- Submission to such conduct or communication has the effect of substantially interfering with a student's education
- Such conduct is sufficiently severe, pervasive, AND objectively offensive as to have the effect of creating an intimidating, hostile or offensive educational environment or negatively affects a student's educational opportunities ("hostile environment").

Allegations against students (including students who are employees) will be resolved according to the procedures in this policy. Allegations against faculty members, other

employees and third parties will be handled according to the University's Policy on Sexual Misconduct: Discrimination, Harassment and Sexual Assault.

To learn more about the University's Policy on Sexual Misconduct: Discrimination, Harassment and Sexual Assault, refer to the Student Handbook.

F. Gender-Based Harassment

Gender-based harassment occurs when unwelcome verbal, non-verbal, physical, electronic, or other conduct or communication based on a person's sexual orientation, gender identity, or gender expression creates a "hostile environment" as described in the definition for Sexual Harassment.

Examples:

- *verbal, physical, or electronic conduct based on sex, gender, sexual orientation, or sex-stereotyping* that creates a hostile, intimidating, or abusive environment as defined above, even if those acts do not involve conduct of a sexual nature; or
- harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression of the individuals involved.

G. Sexual Exploitation

Sexual exploitation occurs when a student takes non-consensual, unfair, or abusive advantage of another for their own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:

- Non-consensual video or audio taping with intent to distribute videos /pictures of sexual activity.
- Stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical stalking is of a sexual nature sexual misconduct has occurred.
- Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation of another for personal sexual pleasure or engages in non-consensual video or audio taping of sexual acts. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the unaware student.
- Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex).

- Knowingly exposing another person to a sexually transmitted infection, such as HIV, without disclosing your STI status.
- Threatening to disclose an individual's sexual orientation, gender identity, or gender expression.
- Knowingly failing to use contraception without the other party's knowledge.
- Inducing Incapacitation for the purpose of taking sexual advantage of another person.

H. Attempted Act

Attempts to commit sexual misconduct are also prohibited under this policy, as is aiding the commission of sexual misconduct as an accomplice.

I. Retaliation

Retaliation against the individual, who initiates a sexual misconduct complaint, participates in an investigation, pursues legal action, or otherwise opposes discriminatory practices or policies, is prohibited. Independent action may be taken against anyone engaging in retaliation.

J. Stalking

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or to suffer emotional distress. Stalking may include repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method.

K. Dating Violence

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be based on the length and type of relationship and the frequency of interaction with the persons involved in the relationship. It is important to recognize that emotional, verbal, and economic abuse are part of the web of dating violence and can exist without the presence of physical abuse.

L. Domestic Violence

Domestic Violence includes crimes of violence committed against a victim by: (i) a current or former spouse; (ii) a person with whom the victim shares a child; (iii) a person who is or has cohabitated with the victim as a spouse; (iv) a person similarly situated to a spouse of the victim; or (v) any other person against whom the victim is protected under North Carolina's domestic and family violence laws. It is important to recognize that

emotional, verbal, and economic abuse are part of the web of domestic violence and can exist without the presence of physical abuse.

M. Complicity

Complicity is any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person.

V. IF YOU BELIEVE THAT AN INCIDENT OF SEXUAL MISCONDUCT HAS OCCURRED:

A person who has experienced an incident of sexual misconduct should seek help, support, and information immediately. There are many sources for information, assistance and support. If you have experienced an incident of a sexual misconduct you should consider the following immediate actions:

Get to a safe place as quickly as possible.

Individuals are encouraged to seek medical attention on-campus at the Student Health Center located on 112 North Benbow Road, 336-334-7880 as soon as possible after an act of sexual misconduct.

If you can, avoid showering, bathing, douching, urinating, or cleaning up in any way. This will prevent the loss of valuable evidence, though evidence can still be collected even if you do. Do not wash any clothes, towels, or sheets that may contain evidence.

If you are considering reporting to law enforcement, **preserve all evidence (clothing, debris, etc.) in a paper bag (not plastic).** If you are certain you wish to report the incident, you may also **deliver evidence to law enforcement directly.**

Don't blame yourself; this was not your fault.

Utilize campus and community resources for immediate and long-term assistance.

Go to area hospitals and/or Resource Center

(At the hospitals, Rape Kits are provided at no cost)

- Cone Health Hospital (Main), 1200 North Elm Street
Greensboro, NC 27401; 336-832-7000
- Cone Health-Wesley Long, 501 N. Elam Avenue
Greensboro, NC 27403; 336-832-1000
- Women's Hospital, 801 Green Valley Road
Greensboro, NC 27408; 336-832-6500

- Women's Resource Center of Greensboro, 628 Summit Avenue
Greensboro, NC 27405; 336-275-6090

Consider notifying a member of the A&T Coordinated Community Response Team, which includes the Title IX Coordinator, Trained Sexual Misconduct Advisors, and University Police Department. Many of these resources have after-hours and emergency contacts. The victim will be notified if an investigation is initiated.

A. Statement of Confidentiality

With respect to any report of sexual misconduct or any complaint of sexual misconduct, A&T will endeavor to maintain the confidentiality of the matter and all individuals involved to the extent permitted by law. A&T will balance the needs of individuals involved with its obligation to protect the safety and well-being of the community at large. In all cases, A&T will respect the privacy and dignity of all individuals involved.

B. Reporting Sources

A&T is committed to creating an environment in which students who have experienced an incident of Prohibited Conduct are encouraged to come forward and make a report. Members of the University community are strongly encouraged to seek support and information from available reporting sources. Immediate reporting is essential for the protection of students. All sources will provide the reporting student with information about obtaining support, resources, and the process associated with making a report or a complaint with the University and/or with a law enforcement agency.

While we support the desires of all A&T victims, reporting may help you to gain some control over the situation and make informed decisions using information provided by the reporting source. Your prompt reporting will not only benefit and support you, but will also help the University in maintaining a safe community.

C. Important Reporting Sources Information

- University Police Department, Ward Hall, A&T, 336-334-7675 (on-campus)
- Greensboro Police Department, 2602 South Elm-Eugene Street, 911 (off-campus)
- Title IX Coordinator, 1020 Wendover Avenue Greensboro, 336-334-7862
- Dean of Students/Associate VC, 205 Murphy Hall, A&T, 336-334-7791
- Vice Chancellor for Student Affairs: 336-334-7675
- Housing and Residence Life, Aggie Village #2, A&T 336-285-4312
- SART/CCRT Advisor, Health Services, A&T336-334-7880

D. On Campus Confidential Reporting Sources

- Counseling Services, 109 Murphy Hall, A&T336-334-7727
- Student Health Center, 112 North Benbow Road, 336-334-7880

E. Off Campus Confidential Reporting Sources

Family Services-Domestic Violence and Rape Crisis Services of Greensboro: 336-273-7273

315 E. Washington Street
Greensboro, NC 27401
www.familyservice-piedmont.org

Rape Hotline: 336-272-7232
Available 24 hours a day/7days a week

Cone Health Hospital Emergency Room: 336-832-7000
1200 North Elm Street
Greensboro, NC 27401

Cone Health Wesley Long, 336-832-1000
501 N. Elam Avenue
Greensboro, NC 27403

Women's Hospital, 801 Green Valley Road
Greensboro, NC 27408
336-832-6500

Guilford County Planned Parenthood: 336-373-0678
1704 Battleground Ave, Greensboro, NC 27408

NC Coalition Against Sexual Assault: 1-888-737-2272
811 Spring Forest Road, Suite 900
Raleigh, NC 27609

Legal Aid of North Carolina Inc.
1.919.856.2564
www.legalaidnc.org

North Carolina Coalition Against Sexual Assault
1.919.871.1015
www.nccasa.org

North Carolina Victim Assistance Network
1.800.348.5068

1. Confidential Reporting Sources (See below for telephone numbers of listed offices):

Confidential reporting sources are those individuals who, by law, are obligated to maintain confidentiality of the disclosure of sexual misconduct. Counselors in Counseling Services and staff in the Student Health Center are not required to re-

disclose information shared with them except in very extreme and unusual circumstances involving evidence of a serious and imminent threat to the individual making the report or to an identifiable third party.

Family Services, is an off-campus agency working to support and assist victims of sexual misconduct. Students who have experienced sexual misconduct can seek help from this agency. They also will not report identifying details about the assault.

2. Non Confidential Resources

Staff, faculty and administrators, except those who have protected confidentiality, must report incidents of student sexual misconduct to University Police Department (UPD) and Title IX Coordinator. This information is limited to the incident reported, the type of incident, and the general location of the incident. Statistics given to UPD will be made available through the Annual Campus Security and Fire Safety Report. Additionally, A&T may post warnings about incidents that continue to pose a potential threat of bodily harm or danger to members of the campus community.

Certain staff, faculty and administrators, referred to as “Responsible Employees” must report all incidents of sexual misconduct to the Title IX Coordinator and include identifying information for the victim and the respondent. See paragraph 5 of this Section.

3. Student Confidentiality

Confidentiality for all students is governed by the Family Educational Rights and Privacy Act (FERPA). FERPA provides that personally identifiable information maintained in the educational records of an institution shall not be disclosed, except as otherwise specified by law. One exception is in the case of students charged with violating institutional policy related to sexual misconduct involving violence. In such cases, all parties will be notified of the outcome of any grievance proceeding, including all sanctions imposed. In the case of students charged with sexual misconduct not involving violence, the parties will be notified of the outcome of the grievance and the sanctions that relate to them individually. Neither the victim nor the respondent will see the others’ records but can read the reports.

4. Coordinated Community Response Team (formerly SART):

A&T CCRT are individuals who are trained to provide students with information and assist with obtaining information and support from available resources at the University and in the Greensboro community. CCRT will also provide students with information about the process associated with making a report or a formal complaint with the University or with a law enforcement agency. Although CCRT

will endeavor to maintain the privacy of the matter and the individuals involved, they may be required to disclose necessary information that is disclosed to them to other University officials. In some circumstances, CCRT may also be responsible for initiating an investigation of the alleged sexual misconduct. CCRT include:

- Title IX Coordinator
- Dean of Students and Vice Chancellor for Student Affairs
- Housing and Residence Life
- Student Health Center
- Counseling Services
- SANE Nurse (Family Services)
- UPD

5. Other Resources:

Other University resources are individuals who can assist with obtaining campus resources, information and support about available resources at A&T. Although these campus resources will endeavor to maintain the privacy of the matter and the individuals involved, they will be required to disclose necessary information that is shared with them to other University officials. Victim can request that information remain confidential and/or anonymous. These other University resources are referred to as Responsible Employees and include the following:

- Student Affairs Administrative Staff
- Residence Hall Staff Members, Administrators, and Directors
- Resident Assistants
- Deans
- Peer Mentors
- Faculty, including adjuncts and teaching assistants
- Coaches and Athletic Trainers
- Student Organization Advisors
- Peer Health Educators

F. Title IX Coordinator

Mrs. Linda Mangum is the Title IX Coordinator in the Division of Human Resources at NC A&T State University. She oversees and provides leadership for the activities of the Title IX investigations, compliance-related responsibilities, reporting and training. Her contact information:

Mrs. Linda Mangum
Director of Employee Relations/AAO/Title IX Coordinator
Division of Human Resources
NC A&T State University
1020 E. Wendover Ave.

Greensboro, NC 27405
Direct: 336.285.3769
Office: 336.334.7862
Email: lmangum@ncat.edu

In addition, a Title IX complaint can be filed with the United States Department of Education, Office of Civil Rights:

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, S.W.
Washington, DC 20202-1475
Telephone: (202) 453-6020
Facsimile: (202) 453-6021
Email: OCR.DC@ed.gov
Toll Free: 1-800-421-3481

U.S. Department of Justice
Educational Opportunities Section of the
Civil Rights Division
Federal Coordination and Compliance Section, NWB
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Telephone: 1-888-848-5306

VI. STUDENT CONDUCT PROCESS FOR SEXUAL MISCONDUCT

A. Definitions of Participants

- 1. Complainant:** The person filing a formal complaint of a violation of the Sexual Misconduct Policy by a student.
- 2. Respondent:** The student accused of violating the Sexual Misconduct Policy.
- 3. Trained Sexual Misconduct Advisor(s) for the Complainant and Respondent:** The Advisor is a A&T staff or faculty member appointed by the Dean of Students and Vice Chancellor for Student Affairs who is trained to support the Complainant and Respondent. The list may be found on the Dean of Students webpage
 - Advisors are available at the request of the Complainant and Respondent.
 - Complainants and Respondents may choose from a diverse list of potential Advisors and may switch at any point should they choose.
 - While students can elect not to use an Advisor, students are *strongly* encouraged to choose and to work with an Advisor.

Complainants can obtain supportive services without electing to use an advisor.

- The Advisor may assist the Complainant and Respondent throughout the Campus Conduct Process, including being present at the conduct hearing. Advisors may not speak at the conduct hearing.
- In consultation with other University officials or faculty members where appropriate, an Advisor may assist in arranging accommodations which may include:
 - Change of on-campus student housing to different on-campus location
 - Exam (paper, assignment) rescheduling
 - Taking an incomplete in a class
 - Transferring of sections
 - Alternative course completion options
 - A campus no-contact order against the Respondent

4. Support Person: The complainant and the respondent may each bring a support person to the hearing. The support person is an ally who provides comfort and helps the complainant or respondent. The support person may include attorneys, student, faculty, or staff.

B. Filing of a Complaint

A&T strongly encourages anyone to report incidences of Sexual Misconduct to the University at any time. If criminal activity has occurred, the University also strongly encourages you to report such incidents to law enforcement, which is a separate reporting option. While reporting is encouraged as soon as possible following an incident, the following reporting options are available to you at any time. The University through the Student Conduct/Title IX Coordinator or Equal Opportunity and Compliance Office can assist you with making a police report or, if requested, with connecting you to the court system to seek a civil no-contact order.

C. Responding to a Complaint

Upon receipt of a complaint, the Title IX Coordinator will review the complaint and conduct a pre-hearing investigation. If the Title IX Coordinator determines that the allegations, if true, are a violation of this policy, the respondent shall receive written notification of the filing of a complaint, along with a copy of the complaint or report. The respondent must arrange and meet with the specified Student Conduct Officer or designee within 3 business days after receiving the complaint in order to discuss the nature of the complaint; the rights and responsibilities of the respondent; and the hearing process. The respondent shall receive a written copy of this policy at that time. Complainant will also receive written notification of the hearing at the same time as the respondent.

The respondent may be accompanied by a Trained Sexual Misconduct Advisor or any member (student, faculty, or staff member) of A&T community to the meeting with the

Student Conduct Officer. If the respondent fails to arrange and meet with the Student Conduct Officer the complaint will either be determined by the Student Conduct Officer or referred by the Student Conduct Officer to the Hearing Board for adjudication.

D. Prehearing Process

The Title IX Coordinator, or a designee, will conduct an investigation of the allegations by interviews and a review of relevant documentation.

The judicial panel of three is comprised of the Dean of Students or his/her Designee and two staff members from the Division of Student Affairs.

The University reserves the right to extend any time periods identified in this policy.

All relevant reports and documents are to be made available to the respondent and complainant no later than 5 business days prior to the hearing.

Once the respondent has been notified of the complaint, the complainant and respondent will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint.

The respondent and complainant will be informed in writing of the date and time of the hearing. The complainant will be allowed the opportunity to write or verbally give an Impact Statement of how the incident may have affected her/him. The impact statement shall be presented during the hearing.

The respondent and complainant shall have the opportunity to make a request for witnesses to speak on their behalf. The University shall determine at the beginning of the hearing which witnesses shall be allowed to testify based on the relevance of their testimony. Up to three witnesses may provide information relative to the incident, whereas there may also be three character witnesses or three signed written character letters.

The respondent and complainant must notify the Student Conduct Officer of any advisors and witnesses attending the hearing 3 business days prior to the hearing.

Any additional scheduling requests must be directed to the Student Conduct Officer to be determined.

If a sexual misconduct case is also being heard by a civil or criminal court, A&T retains the right to hear the case before the civil or criminal case, and to implement appropriate action (such as No Contact Orders, removal from campus residence facilities, removing a student from a class or classes or Suspension) to maintain the safety of the campus. Please be advised that A&T will not wait on the outcome of civil or criminal court proceedings.

The Campus Conduct Process shall be confidential to the extent possible and as allowed by law.

If the findings of the investigation deem it necessary, the University will attempt to schedule a hearing within 10 business days after the respondent has received the complaint but will be completed within 30 business days. The appeal process is not included in the process and may take an additional 30 days.

E. Rights of the Complainant

The right to be assisted by a Sexual Misconduct Advisor throughout the Campus Conduct Process.

The right to have a support person (a member of A&T community) accompany and assist throughout the Campus Conduct Process. The support person may not speak at the Conduct Hearing.

An Attorney may fully participate in the Conduct Hearing; provided that any questions directed at witnesses will be asked through the Chair.

The right to make an Impact Statement at the conclusion of the hearing provided the respondent was found to have violated the Sexual Misconduct Policy.

The right to request a Campus No Contact Order against a student who has engaged in or threatens to engage in an act of sexual misconduct which presents a danger to the welfare of the complainant or others.

F. Rights of the Respondent

The right to be assisted by a Sexual Misconduct Advisor throughout the Campus Conduct Process.

The rights to have a support person (a member of A&T community) accompany and assist throughout the Campus Conduct Process. The support person may not speak at the Conduct Hearing.

An Attorney may participate in the Conduct Hearing in accordance to the Student Conduct procedure.

The right to request a Campus No Contact Order against a student who has engaged in or threatens to engage in an act of sexual misconduct which presents a danger to the welfare of the respondent or others.

G. Rights of Both the Complainant and Respondent (Pre-, During, and Post-Hearing)

1. Pre-Hearing Rights

The right to a reasonable investigation and appropriate resolution of all credible formal complaints.

The right to petition that any member of the Hearing Board be removed on the basis of knowledge of the participants in the case that may impair - or may be perceived to impair – their ability to hear and determine a case impartially.

The right to have a hearing.

The right to bring a support person and Sexual Misconduct Advisor to all phases of the investigation and hearing.

The right to challenge documentary evidence.

The right to present relevant witnesses to the Hearing Board, including expert witnesses.

The rights to present student, faculty and staff witnesses, and the right to ask questions of witnesses through the Chair.

The right to be informed in advance of any public release of information regarding the formal complaint to the extent possible and as allowed by law.

The Complainant and Respondent have the right to consult with an attorney at their own expense.

The right to present up to three material and three character witnesses to the Hearing Board.

2. Hearing Rights

The right to be present for all testimony given and evidence presented before the Hearing Board.

The right to have a support person and Sexual Misconduct Advisor present during a hearing. The support person and Sexual Misconduct Advisor may not take part directly in the hearing itself, though the student may request a recess to confer with their respective support person and Sexual Misconduct Advisor.

In the event that responsibility is found, both respondent and complainant will be given the option to be excused from the hearing room during the reading of impact statements.

The right to ask the Chair of the Hearing Board to ask questions of witnesses.

3. Post Hearing Rights

The right to receive written notice of the outcome and sanction(s) of the sexual misconduct hearing to the extent permitted in the Notice of Determination.

The right to appeal the finding and sanction of the Hearing Board in accordance with the provisions of this policy.

The right to be free from retaliation.

H. Special Procedures

1. False Reports

A&T will not tolerate intentional false reporting of incidents. It is a violation of the *Student Code of Conduct* to make an intentionally false report of any policy violation, and it violates state criminal statutes and civil defamation laws.

2. Amnesty for other violations

a. For the Complainant:

A&T encourages reporting of incidents of sexual misconduct. Sometimes, complainants are hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct, such as underage drinking at the time of the incident. To encourage reporting of sexual misconduct incidents, the University may exercise leniency towards a complainant with respect to taking action for other violations of the Student Code of Conduct.

b. For the Good Samaritan:

The welfare of students in our community is of paramount importance. At times, students on and off campus may need assistance. A&T encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to assist another student who experienced an incident of sexual misconduct). A&T may exercise leniency towards the Good Samaritan with respect to taking action for other violations of the Student Code of Conduct.

3. Notification of Determination

The determination made after a hearing is part of the education record of the

respondent, and is protected from disclosure under Federal law. However, there are two exceptions as follows:

Complainants shall be informed of the formal charges against the respondent, the determination made after a hearing, and any sanctions imposed that directly relate to the complainant, unless the determination involves sexual violence, in which case the complainant shall be informed of any sanctions imposed..

Students who bring any sort of sexual violence complaint against faculty or staff may be informed of the determinations made and sanction imposed.

4. Alternative Testimony Options

For complainants, alternative testimony options will be provided. Options include, placing a privacy screen in the hearing room, or other options that provide a safe space for participation while not depriving the respondent of their rights in the process. While these options are intended to help make the complainant more comfortable, they are not intended to work to the disadvantage of the respondent.

5. Past Sexual History/Character

- a. The past sexual history or sexual character of a student will not be admissible in a Sexual Misconduct hearing.
- b. If, in the past, a respondent was found to have violated the Sexual Misconduct Policy (“Past Violation”), the information related to the Past Violation may be considered by the Hearing Board if:
 - i. The previous violation was substantially similar to the present complaint; and
 - ii. The previous violation indicates a pattern of behavior and substantial conformity with that pattern by the respondent.

I. The Hearing

1. The Student Conduct Officer shall assemble a Hearing Board of three trained members of A&T’s Student Affairs administration or staff to hear sexual conduct cases. Each Board shall be composed of representatives of both genders. A Board Member can recuse themselves as appropriate, if requested.
2. All hearings shall be closed to the public.
3. Board members must indicate to the Student Conduct Officer within 3 days prior to the hearing whether they have knowledge of the participants in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to recuse themselves if their participation might compromise the integrity of the hearing process.

4. All hearings will be at least audio-recorded. A digital file/transcript will be made available (i.e. read or take notes) to the complainant and respondent in the event a request for an appeal is filed. The recordings/transcripts are kept in the Dean of Students/Associate Vice Chancellor's office.
5. Board members shall be provided with access to written information and evidence when they arrive for the hearing.
6. The respondent and complainant may be accompanied by their support person and Sexual Misconduct Advisor. The support person and Sexual Misconduct Advisor are present to act as counselors and to support the respondent and complainant, and to provide advice on procedural matters. The support person and Sexual Misconduct Advisor do not have speaking privileges during the hearing. A hearing will not be cancelled or postponed in the event a scheduled support person or Sexual Misconduct Advisor does not attend. If the scheduled support person or Sexual Misconduct Advisor is not able to attend, the complainant/respondent should arrange for a substitute.
7. If the respondent or complainant fails to appear at the hearing, the hearing will move forward in their absence.
8. Witnesses may be present at the hearing only at the time they are called to speak. A hearing will not be canceled or postponed if a scheduled witness does not attend.
9. Written and notarized statements of witnesses not in attendance due to extraordinary circumstances shall be considered by the Board if approved by the Chair.
10. At the start of the hearing, the Chair shall ask the respondent if they have received the complaint, and if they understand the nature of the complaint.
11. The remainder of the hearing shall customarily proceed in the following order:
 - The Title IX Coordinator or a UPD officer will present the complaint or incident report along with the information obtained through the investigative process to the Hearing Board. The Hearing Board shall consider only the information and evidence related to the alleged violations set forth in the formal complaint.
 - The Title IX Coordinator or a UPD officer will present both the accepted and disputed facts.
 - Board will, if applicable, ask the Title IX Coordinator to present sexual misconduct violations.
 - Board will ask the Complainant if they have any information to add, including specific witnesses.
 - Board will ask the Respondent if they have any information to add.
 - Board will ask either the Complainant and/or Respondent any clarifying questions.
 - Board will deliberate in private to decide "in violation" or "no violation."

- If the Respondent is found in violation, both Complainant and Respondent are given the opportunity to make an Impact Statement prior to the rendering of sanctions.
- Board, if Respondent is found in violation, will render a sanction unless when the Hearing Board recommends suspension or expulsion.
- In cases where there is a violation of this policy and the Hearing Board recommends suspension, the recommendation is forwarded to the vice chancellor for student affairs for review, evaluation and decision.
- Whenever the Hearing Board recommends expulsion, the recommendation is forwarded to the chancellor for a decision.

12. The Hearing Board by majority decision will determine whether or not the respondent violated the Sexual Misconduct Policy as alleged in the formal complaint by finding either: "in violation" or "no violation" of the Sexual Misconduct Policy. The Board's determination shall be based on a "preponderance of the evidence" standard which means "it is more likely than not" that a violation of the Sexual Misconduct Policy occurred.

13. If the Board renders a determination of "in violation", the Board will recommend a sanction consistent with those specified in the A&T Code of Conduct, and set forth below.

14. The Board shall have up to 2-3 business days to render a decision. However with the more serious expulsions and suspensions the may have up to 10 business days.

15. The Chair of the Hearing Board will notify both the Complainant and Respondent in writing of the Hearing Board's decision.

16. Both the Complainant and the Respondent may file a written appeal of the Hearing Board's decision. The appeal must be based on one or more of the following:

- New information directly related to the case that was unavailable during the investigation period or during the hearing itself.
- Procedural error that might have affected the decision.

17. The purpose of the appeal is not to rehear the underlying case; rather, it is to determine if there is sufficient information presented to allow a reconsideration of the Hearing Board's decision.

18. Appeals must be made, in writing, to the Vice Chancellor for Student Affairs (for suspensions) or the Chancellor (for expulsions) within seven (7) business days of the notification of the decision.

19. The Vice Chancellor for Student Affairs may decide the appeal or ask the original Hearing Board to reconsider the case based on new information presented.

20. The Vice Chancellor for Student Affairs will review the appeal and render its decision within ten business days after receiving the notice of appeal.

21. The decision of the Vice Chancellor for Student Affairs is final in cases that do not involve suspension or expulsion. Suspension decisions may be appealed up through the University's Board of Trustees, whose decision is final. Expulsion decisions may be appealed up through the Board of Governors.

J. Guidelines for Sanctions

Sanctions preserve individual and institutional safety and integrity and, whenever possible and appropriate, help offenders to learn from their mistakes. Individuals found to be in violation of sexual misconduct offenses involving penetration will likely face a recommended sanction of suspension or expulsion. Individuals found to be in repeat violation for sexual misconduct offenses will likely face a recommended sanction of suspension or expulsion

The Dean of Students/Associate Vice Chancellor for Student Affairs (DoS/AVCSA) maintains a record of all disciplinary hearings and sanctions applied, and these are admissible in subsequent student conduct proceedings involving the student(s) in question. Violations of the Code of Conduct may have an impact on eligibility for academic prizes and honors, eligibility to hold a student leadership position, participation and/or status in the room selection process, law school applications, security clearances, etc.

The board may sanction students found in violation of the Sexual Misconduct Policy in a variety of ways. Most sanctions either restrict student activities or require the student to complete specific reparative tasks within a specific timeframe. During the period from hearing to completion of sanctions the student is on "Disciplinary Probation."

As determined by the board or the DoS/AVCSA, a student on Disciplinary Probation may not be eligible to register for the ensuing semester of study at A&T or pursue work at another academic institution, or participate in A&T room selection. A student who violates the Code of Code while on Disciplinary Probation or fails to comply with assigned sanctions will generally receive additional, more substantial sanctions. In the case of graduating seniors, students may not receive diplomas or transcripts or participate in the graduation ceremony until completion of all sanction requirements, unless specifically permitted by the Administrative Hearing Board.

- **Education:** Students may be required to participate in educational activities. Such educational activities include but are not limited to completion of a report or attendance at a seminar or other educational program or presentation.
- **Professional Assessment:** Completion of a professional assessment that could help the student or the University ascertain the student's ongoing supervision or support needs to successfully participate in the University community.
- **Specific Restriction(s):** The board may impose specific restrictions on an individual to prevent either access to an area of campus, participation in some aspect of the University's operation and life, and/or restriction from all forms of contact with certain persons. Note that some campus organizations, such as SGA, do not permit its members to serve in leadership positions if they are on Disciplinary Probation.
- **Suspension:** The board may recommend suspension, specifically in sexual misconduct cases involving penetration, to the DoS/AVCSA. The board may also assign specific sanctions, such as community service, for completion during the suspension

period. While suspended, students may transfer up to two courses (maximum of eleven credit hours) taken at another institution, subject to the usual review by the Registrar. The board may recommend suspension in cases where:

1. public safety or disruption of the academic and educational process is a concern;
 2. the respondents demonstrate an unwillingness to take responsibility for their behavior by failing to complete sanction-related tasks or by committing new social or academic violations;
 3. the respondent's infraction is too egregious relative to the University's academic or social value system; or
 4. the respondent has committed multiple offenses that warrant a serious sanction.
- Suspension in abeyance: In cases of suspension, the board or administration may decide that there are circumstances which mitigate against the immediate separation of the student from the University. Such circumstances may include, but are not limited to the timing of the violation or the student's intent at the time of incident. However, should the student be found in violation of A&T rule or regulation during the period of abeyance, the abeyance will be automatically lifted and the suspension shall take effect immediately for the remainder of the original sanction.
 - Expulsion: The board may recommend expulsion to the DoS/AVCSA. Expulsion is a permanent status. The respondent must leave A&T immediately and cannot register again as a student. Expulsion is warranted when the student's conduct is so disturbing to community values that making amends is not possible. Students that are suspended or expelled from the University are also trespassed from all University property and University sponsored events.
 - Please be advised that transfer notification will be made on your transcript.

Date policy is effective: upon approval and applies to all matters first reported thereafter

Approved by the Chancellor

First approved: July 13, 2015

Revised:

Harold L. Martin, Sr.
Chancellor

Date signed for final posting

Melody C. Pierce
Vice Chancellor for Student Affairs

Date signed for final posting