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|  | **NORTH CAROLINA A&T STATE UNIVERSITY**  ***DEFINITIONS***  **Supplement A to University Policy 207, Sexual Harassment, Discrimination, and Misconduct** |

(1) “Actual Knowledge” means notice 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) “Amnesty” means the act of an authority to pardon specific behavior.

(3) “Complainant” means 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.

(4) “Consent” means an informed, affirmative, voluntary, and mutual agreement to engage in sexual activity.

(5) “Course of Conduct” means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property.

(6) “Dating Violence” means violence committed by a person—

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

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

(8) “Discrimination” for purposes of this policy, means the unjust or prejudicial treatment of a person on the basis of sex, gender, sexual orientation, or sexual or gender identity that may result in adverse consequences such as a failure to hire or denial of admission to an academic program.

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

(10) “Education Program or Activity” includes locations, events, or circumstances over which the University exercises substantial control over 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.

(11) “False Complaint” or “False Information” means knowingly or recklessly alleging a complaint of discrimination, harassment or related retaliation where no such conduct exists or intentionally providing misleading information during the course of an investigation.

(12) “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..

(13) “Gender-Based Harassment” includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

(14) “Harassment” means verbal or physical conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

(15) “Hostile Environment” exists when the sexual or gender harassment or discrimination is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University’s education or employment programs and/or activities. Conduct must be severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

(a) The frequency, nature and/or severity of the conduct;

(b) Whether the conduct was physically threatening;

(c) The effect of the conduct on the Complainant’s mental or emotional state;

(d) Whether the conduct was directed at more than one person;

(e) Whether the conduct arose in the context of other discriminatory conduct;

(f) Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or University programs or activities; and

(g) Whether the conduct implicates concerns related to academic freedom or protected speech.

(16) “Interim Measures” are measures taken by the University before or during an investigation involving allegations of Prohibited Conduct to assist the parties in maintain safe boundaries, preserve evidence, and allow the parties to continue participation the University’s Education Programs or Activities (including employment).

(17) “Intimate Partner Violence” includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence may include any form of prohibited conduct under this policy, including sexual assault, stalking, and physical assault.

(18) “Investigation Report” means a document that details the findings of an investigation to provide decision-makers with the facts needed to determine a course of action.

(19) “Title IX Investigator” means the individual or individuals assigned to investigate complaints of harassment, sexual misconduct, and discrimination made by and against students, faculty, and staff. The Title IX Investigator will interview parties and witnesses, gather relevant evidence, and provide an investigation report of the findings to the Title IX Coordinator.

(20) “Nonconsensual Sexual Intercourse” is any penetration, however slight, with any object or body part and performed by a person upon another person without consent.

(21) “Physical Assault” is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical assault will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition.

(22) “Preponderance of the Evidence” is a standard of proof that means that it is more likely than not that a policy violation occurred.

(23) “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:

1. 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);
2. 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;
3. 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));
4. Dating violence as defined in Violence Against Women Act (“VAWA,” specifically 34 U.S.C. 12291(a)(10));
5. Domestic Violence as defined in VAWA (34 U.S.C. 12291(a)(8));
6. Stalking as defined in VAWA (34 U.S.C. 12291(a)(30); or
7. Other sexual misconduct.

(24) “Quid Pro Quo” is a Latin term that means “something for something.” Quid pro quo harassment occurs when a manager, instructor, or other authority figure offers or merely hints that he or she will give the employee or student something (i.e., a raise, a promotion, better grade, better assignments) in return for that employee’s or student’s satisfaction of a sexual demand. This also occurs when the other authority figure says he or she will not reprimand an employee or student in exchange for some type of sexual favor. Job applicants or applicants for admission to the University may be subject to this kind of harassment if the hiring or admission decision was based on the acceptance or rejection of sexual advances.

(25) “Report” or “Complaint” 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.

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

(27) “Retaliation” means any adverse action taken against a person for making a good faith report of harassment or discrimination or participating in any proceeding related to a claim of harassment or discrimination. Retaliation includes threatening, intimidating, harassing, coercing, discriminating, or any other conduct that would discourage a reasonable person from engaging in or exercising any right or privilege under Title IX or this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of prohibited conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.

(28) “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:

1. 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;
2. 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;
3. 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;
4. 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;
5. Incest, defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
6. Statutory Rape, defined as nonforcible sexual intercourse with a person who is under the statutory age of consent.

(29) “Sexual Contact” is any intentional sexual touching, however slight, with any object or body part performed by a person upon another person, including intentional touching of the breasts, buttocks, groin, inner thigh or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and/ or making another touch you or themselves with or on any of these body parts.

(30) “Sexual Exploitation” means purposely or knowingly doing any of the following:

(a) Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give affirmative consent to sexual activity;

(b) Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or streaming of images);

(c) Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);

(d) Recording or photographing private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts or buttocks) without consent;

(e) Disseminating or posting images of private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts or buttocks) without consent;

(f) Prostituting another person; or

(g) Exposing another person to a sexually transmitted infection without the other’s knowledge.

(31) “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

(a) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;

(b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or (3) ‘‘Sexual assault’’ as defined in 20 U.S.C. 1092(f)(6)(A)(v), ‘‘dating violence’’ as defined in 34 U.S.C. 12291(a)(10), ‘‘domestic violence’’ as defined in 34 U.S.C. 12291(a)(8), or ‘‘stalking’’ as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise.

(32) “Sexual Intercourse” includes vaginal penetration by a penis, object, tongue, or finger; or anal penetration by a penis, object, tongue, or finger; or any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

(33) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact, in order to engage in stalking behaviors.

(34) “Substantial Emotional Distress” means significant mental suffering or anguish.

(35) “Supportive Measures” 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, including measures designed to protect the safety of all parties or the recipient’s educational environment, or 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.

(36) “Third Party” means a person who is not a University student or employee.

(37) “Title IX Coordinator” means the University official who is primarily responsible for coordinating the University’s responses to complaints involving sexual harassment or sex discrimination. The Title IX Coordinator will be informed of all reports of sexual or gender-based harassment and violence, stalking, and intimate partner violence, and will oversee the University’s review, investigation, and resolution of those reports.