

Guidance for Creating College and University Domestic Violence, Dating Violence, Stalking, and Sexual Violence Prevention and Intervention Programs and Policies for Students



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Overview

This document, the Guidance, is one of two documents prepared by the North Carolina Coalition Against Domestic Violence (NCCADV) and serves as a general guide for colleges and universities as they develop their domestic violence, dating violence, stalking, and sexual violence policies. The Template is the second document, a supplement to the Guidance, and includes a recommended layout and language for the policy itself.

Institutions are at varying stages of their policy development. These documents are comprehensive and therefore will serve institutions differently. Institutions that are at the beginning stages may be more likely to adopt the entire template, whereas institutions that have recently written or updated their policies may be more likely to view these documents as additional guidance and/or suggestions.

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Guidance for Creating College/University Domestic Violence, Dating Violence, Stalking and Sexual Violence Prevention and Intervention Programs and Policies for Students

Introduction

This information has been gathered by the North Carolina Coalition Against Domestic Violence (NCCADV) and shared with the North Carolina (NC) Domestic Violence Prevention Enhancements and Leadership through Alliances (DELTA), Focusing on Outcomes for Communities United with States (FOCUS) State Steering Committee (SSC). The NC DELTA FOCUS SSC is an interdisciplinary work group funded by the [Centers for Disease Control and Prevention](#) through the [North Carolina Coalition Against Domestic Violence \(NCCADV\)](#).

Terms and definitions used throughout these documents

1. **Intimate partner violence (IPV)** is the overarching term used in institutional policies to address any form of domestic or dating violence.
2. **Stalking** refers to a pattern of behavior directed towards a specific person that would cause a reasonable person to feel fear.
3. **Sexual violence** refers to any non-consensual sexual contact including penetration.

Further, as required by the Campus Sexual Violence Elimination Act of 2013, (Campus SaVE), in addition to counting acts of sexual violence, institutions must now also include acts of domestic and dating violence and stalking in Clery Act statistics and in their Annual Security Report.

NCCADV recommends that all colleges and universities in North Carolina and across the nation:

1. *Create comprehensive programs and policies that define IPV, stalking, and sexual violence¹;*
2. *Explain expectations for responding and reporting IPV, stalking, and sexual violence for students, full and part-time employees, volunteers, and visitors to colleges and universities;*
3. *Describe procedures to be followed and resources to be used when instances of IPV, stalking, and sexual violence are reported;*
4. *Identify and implement strategies to prevent IPV, stalking, and sexual violence before it occurs.*

The recommendations provided herein reflect federal guidance from the United States Department of Justice (US DOJ), the Violence Against Women Act's [Campus Sexual Violence Elimination Act \(Campus SaVE\)](#), and the [United States Department of Education's Office of Civil Rights \(US DOE's OCR\)](#). Additional

¹ Dating and Domestic Violence, Stalking, and Sexual violence policies do not need to have the exact language as the law within the applicable jurisdiction, but should capture the same framework. The jurisdictional definitions are to be used for the Annual Security Report.

guidance was obtained through recommendations from the [North Carolina Sexual Violence Prevention Team’s 2013 *Guidance for Creating a Campus Sexual Misconduct Policy*](#), the White Houses’ [Not Alone Document](#), the publication *Sexual Violence on the College Campus: A Template for Compliance with Federal Policy* (McMahon, 2008), the organization [Know Your IX](#), and from the [Connecticut Coalition Against Domestic Violence’s](#) document, [Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut](#).

Each institution will have to make decisions about what to name its policy and how to make the necessary changes to ensure that any policy covers IPV, stalking, and sexual violence, as required by Campus SaVE.

Guidance and Template Language

- Throughout this guidance, those who have experienced violence will be referred to as “victims/survivors.” As survivor is an empowering term, it is the recommended language to use whenever referring to the person who experienced violence. It is also important however; that the term you choose is consistent with the expressed preferences within your community, such as in conversations and in written materials.
- The guidance will refer to the person who committed the violence as “alleged perpetrator.”
- The policy template, however will use the term “reporting party” when referring to the victim/survivor or whoever put the college/university on notice that a crime occurred, and “responding party” when referring to the alleged perpetrator(s). These terms are considered more neutral than complainant and respondent, commonly used terms in institutional policies. Using terms that imply judgment, such as complainant and respondent, systematically create a culture in which victims/survivors are seen as complainers, while perpetrators are given the benefit of the doubt in being considered “alleged.” The terms reporting party and responding party are specific to the roles of the individuals in the process, and do not judge or place value on their behavior.

| Timeframe | Term | Definition |
|---------------------------------------|---------------------|---|
| Prior to reporting to the institution | Victim/Survivor | Those who have experienced IPV, stalking and/or sexual violence. |
| | Alleged perpetrator | The person who is being reported as committing the violence. |
| After reporting to the institution | Reporting Party | A victim/survivor or person who notified the institution that a crime occurred. |
| | Responding Party | The person who was reported as committing the violence. |
| | Perpetrator | The person found responsible by the institution for violating an IPV, stalking and/or sexual violence policy. |

- *These documents are intentionally gender neutral. In other words, "they" and "their" are used when referencing people as opposed to she and he (except when citing research and statutes). This is recommended so that all students, regardless of their gender identity and/or gender expression, feel included, acknowledged, and valued when reading the policy.*

Throughout the document, in addition to required elements for your policy, you will find additional recommendations to increase the quality of your policy. While those are not required for federal compliance, they are recommended as best practice and/or industry standard. It is acknowledged, however, that there are vast differences in culture and resources, and consequently implementation among colleges and universities, and therefore all institutions may not be able to implement these recommendations in the same way nor at all.

Best Practices for Creating College and University Policies & Procedures

Schools should institute and implement clear policies on IPV, stalking, and sexual violence. These resources should:

- ✓ Be easy to access and understand and be available in a variety of accessible formats. Examples include using QR Codes, creating phone Apps, using a video phone/video relay service, creating a video of the policy in American Sign Language, ensuring the policy is in a format accessible to common screen reading software, and having a shortened version of the policy in lay terms.
- ✓ Be available online.
- ✓ State that all students are protected under Title IX, including female, male, genderqueer, and gender non-conforming victims/survivors.
- ✓ State that the institution prohibits IPV, stalking, and sexual violence.
- ✓ State that victims/survivors and all individuals who participate in the investigation or hearing are protected from any form of retaliation by law and by policy.
- ✓ Publicly release aggregate statistics of sanctions assigned to responding parties found responsible for IPV, stalking, and/or sexual violence.
- ✓ Conduct an annual survey to determine prevalence of IPV, stalking, and sexual violence as well as broader social aspects of campus climate as it relates to IPV, stalking, and sexual violence.
- ✓ Conduct an annual resource audit to determine assets available to assist survivors. Advocate for changes in resources as needed.
- ✓ Involve students and community members in policy development.
- ✓ Refer to victims/survivors and any other person who has put the college/university on notice of an incident of IPV, stalking, and sexual violence, as "reporting party," and alleged perpetrators as "responding party."
- ✓ Be accompanied by primary prevention strategies and programming that reach the entire college/university community.

Policy Contents

I. Welcome Statement & Scope of Problem

Begin your policy by creating a strong introduction that states the mission and values of your institution and explains the problem of IPV, stalking, and sexual violence and explicitly states that the institution prohibits IPV, stalking, and sexual violence against all people, including those in different-sex or same-sex relationships regardless of race, color, national origin, sex, disability, ethnicity, religion, gender identity, gender expression, sexual orientation, age, education, veteran's status, or socio-economic status.

IPV, stalking, and sexual violence are serious problems both in the community and on college campuses. Further, previously a silent problem, IPV is now being identified on college campuses at rates similar to community incidence (Carr, 2005). The following highlights college experiences:

Dating and Domestic Violence

- 43% of dating college women report experiencing some violent and abusive dating behaviors including physical, sexual, tech, verbal or controlling abuse (Knowledge Networks, 2011).
- Nearly one third of college students reported having physically assaulted a dating partner in the previous 12 months (Knowledge Networks, 2011).
- 1 in 5 college women (22%) report physical abuse, sexual abuse, or threats of physical violence (knowledge Networks, 2011). The same study also revealed that more than half of college students surveyed (57%) said that it's difficult to identify dating abuse and 58% said that they don't know what to do to help someone who is a victim of dating abuse.
- College-age women experience the highest rate of nonfatal IPV (Intimate Partner Violence in the US, 2006).
- More than 40% of LGBTQ+ college students (lesbian, gay, bisexual, transgender, queer, questioning and other non-heterosexual identities) report that they have experienced IPV in their current relationships, a rate that generally aligns with the rate of violence among heterosexual couples (Edwards & Sylaska, 2014).

Sexual Violence

- In a study of undergraduate women, 19% experienced attempted or completed sexual assault since entering college (Krebs, Linnquist, Warner, Fisher, & Martin, 2009).
- Among college students who were sexually assaulted, 35% of attempted rapes occurred on dates, 22% of threatened rapes occurred on dates, and 12% of completed rapes occurred on dates (Fisher, 2000).
- 3.5% of undergraduate women reported experiencing rape or attempted rape during a 6–7-month academic year (Fisher, 2000).

- 6.4% of college-aged men perpetrate rape (Lisak, 2002).
- 90% of campus rapes are committed by repeat offenders (Lisak, 2002).

Stalking

- College women experience the highest rates of stalking at 13%, and of those stalked, 42% were stalked by a boyfriend or ex-boyfriend (Fisher, 2000).

There are unique situations on college campuses that complicate the issues surrounding IPV, stalking, or sexual violence. Specifically:

1. Accessibility/Proximity

- The victim/survivor may continue to live in fear after an assault as the alleged perpetrator may live in the same residence hall or attend the same classes, work in the same department or be a member of their student organization, and/or be enrolled in the same graduate program.
- A victim's/survivor's predictable routine (i.e. class schedule, extracurricular activities, on-campus job, housing, and parking) may make it easier for a stalker to predict and/or track their movements.

2. Social Environment/Social Cost

- Victims/survivors may have a small or limited social network on campus once they leave home. This can be especially impactful in "closed communities" such as Greek Life, ROTC, Athletics, Student Government Association, etc.
- Victims/survivors may feel trapped by the social networks and/or the closed environment of many colleges and universities. This can be especially impactful on campuses with first year (or longer) live-on requirements, rural/urban campuses with high residential percentages, etc.
- Social networking sites can provide easy access for perpetrators to attempt to (even anonymously) intimidate or control their partners/targets.
- Victims/survivors of color, particularly African American students, may fear exposing a member of their community to the judicial system as African American men in particular are already disproportionately represented throughout the entire judicial system.

3. Family/Home

- Victims/survivors may feel isolated from their personal support networks and unable to access help because they are away from home. This is especially true if the student is also from a different state or country.²
- Victims/survivors with disabilities may fear losing support from a care-taker, or one who provides significant emotional and/or financial support.
- Victims/survivors might fear their parents may find out and take them out of school. They may be less likely to report, as a result.

² Knowledge Networks for Liz Claiborne Inc. (2011). *College Dating Violence and Abuse Poll*. Break the Cycle.

- Victims/survivors and their families may not be able to afford supportive services.
- Victims/survivors may be married to the alleged perpetrator or have strong financial ties (especially graduate students and faculty/staff), or they may be in an isolated community because they moved to a new place for one or both partners to attend school.

4. Training/Knowledge

- Administrators may not fully understand the scope of the problem and/or may not react appropriately (e.g. if professors and/or teachers are notified about IPV, stalking, or sexual violence between two students).
- Victims/survivors may not define their experience as abusive, particularly with verbal and emotional abuse that does not rise to physical violence.
- Lack of support services and/or prevention and awareness programming on campus.

Given the pervasiveness of IPV, stalking, and sexual violence on campus, as well as the specific factors that make IPV, stalking, and sexual violence especially common on college and university campuses, it is vital that institutions develop specific policies to provide victim/survivor support, hold perpetrators accountable, and highlight prevention education programs.

II. Identify the Required Elements for College/University IPV, Stalking, and Sexual Violence Prevention Programs and Policies

In accordance with the 2013 [Campus Sexual Violence Elimination Act \(Campus SaVE\)](#), colleges and universities, both public and private, participating in federal student aid programs are **required** to:

- 1) [Provide prevention education programs](#)
- 2) [Address victims'/survivors' rights and resources for assistance](#)
- 3) [Outline institutional statistical reporting requirements](#)
- 4) [Specify conduct procedures](#)
- 5) [Publish an annual security report](#)

Provide Prevention Education Programs

Institutions must provide primary prevention and awareness programs for all incoming students and new employees, along with ongoing prevention and awareness programs for current students and employees.

[Campus SaVE](#) defines the following terms:

- a) **Primary Prevention:** Programming, initiatives, and strategies informed by research that are intended to stop IPV, stalking, and sexual violence before they occur through the promotion of positive and healthy behaviors and beliefs that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social

norms in healthy and safe directions.

- b) Awareness Programs: Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.
- c) On-going Prevention and Awareness Programming: Initiatives and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing IPV, stalking, and sexual violence, using a range of strategies with audiences throughout the institution.
- d) Current Students: While not specifically defined in the statute, “current students” is assumed to include graduate and professional students. The Department of Education decided to interpret the statute consistent with other Clery Act requirements by requiring institutions to offer these types of training to “enrolled” students. Under §§ 668.41 and 668.46, institutions must distribute the annual security report to all enrolled students. Applying that same approach here would make it clear that the same students who must receive the annual security report must also be offered the training. The Department's regulations in 34 CFR § 668.2 define “enrolled” to mean a student who (1) has completed the registration requirements (except for the payment of tuition and fees) at the institution that they are attending; or (2) has been admitted into an educational program offered predominantly by correspondence and has submitted one lesson, completed by him or her after acceptance for enrollment and without the help of a representative of the institution.
- e) Employees: includes all faculty, staff, contract employees, and other paid employees of the college or university.

These programs must include the following:

- a) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
- b) A description of programs designed to inform students and employees about the prevention of crimes.
- c) A statement that the institution prohibits sexual violence (Campus SaVE’s definition of sexual violence includes IPV, stalking, and sexual violence)
- d) Safe and positive options for bystander interventions. Campus SaVE defines bystander interventions as safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene in situations of potential harm for another person; or to prevent institutional structures or cultural conditions that facilitate violence, including recognizing situations of potential harm, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
- e) Risk reduction information and warning signs of abusive behavior. Campus SaVE defines risk reduction as options for mitigating risk factors through efforts designed to decrease perpetration and bystander inaction, and to increase empowerment for victims through the

augmentation of protective factors in order to promote safety and to help individuals and communities address conditions that facilitate violence.

- f) The definition of IPV, stalking, and sexual violence in their jurisdiction. The institution must follow federal definitions when collecting statistics for their Annual Security Report (ASR). (See page 22 of this guidance for these definitions).
- g) College/university policy definitions for IPV, stalking and sexual violence. While institutions must provide students with state and federal laws, they must also provide students with the campus policy definitions of these terms. Institutions have the flexibility to define these terms themselves.
- h) Institutions must include the definition of consent in their sexual misconduct policy or combined gender-based violence policy. This definition must include both the campus definition as well as their state statute.
- i) A clearly expanded definition of sexual violence to include IPV, stalking, and sexual violence.

Address Victims’/Survivors’ Rights

Institutions must adopt and publish procedures in their Annual Security Report no later than October 1, 2014 to afford all students and employees who report an incident of sexual violence – covering IPV, stalking, and sexual violence – specific rights whether or not they pursue any formal complaint or not. Additionally, written notice of these rights must be provided to a student or employee when they report their victimization (Clery Act, 1990).

Students reporting victimization will be provided with their written rights to (Clery Act, 1990):

- a) Be assisted by campus authorities if reporting a crime to law enforcement.
- b) Change the academic, living, transportation and working situations of any victim/survivor if requested and reasonably available, whether or not a formal report is made.
- c) Notify the victim/survivor of their right to obtain or enforce a no contact directive, restraining order, or protection order.
- d) Have a clear description of their institution’s disciplinary process, including a detailed timeline for each stage of the disciplinary process, and know the range of possible sanctions. Specify that the investigation must conclude within 60 days.
- e) Notify the victim/survivor of campus and community resources including contact information.

Further, NCCADV adds that by having a designated, trained advocate, both colleges and universities as well as victims/survivors will benefit from the advocates specialized knowledge of campus policies, procedures, protocols, and resources, as well as the focused attention in response to incidents of IPV, stalking, and sexual violence. The advocate should also facilitate access for the victims/survivors to community resources. Guidance recommends that colleges/universities should sign memorandums of understanding with local domestic violence and rape crisis centers as well as local law enforcement agencies regarding victim/survivor services and protocols. Care must be taken to establish a

victim/survivor advocacy structure in which expectations about [confidentiality](#) parameters are clear. (See Victim/Survivor Rights section on page 32 of this document for more guidance).

Retaliation statement

The following section is a direct excerpt from the April 2014 Office of Civil Rights Guidance (Questions and Answers on Title IX, 2014):

The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. This means that if an individual brings concerns about possible civil rights problems to a school's attention, including publicly opposing sexual violence or filing a sexual violence complaint with the school or any State or Federal agency, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she testified, or participated in any manner, in an OCR or school's investigation or proceeding. Therefore, if a student, parent, teacher, coach, or other individual complains formally or informally about sexual violence or participates in an OCR or school's investigation or proceedings related to sexual violence, the school is prohibited from retaliating (including intimidating, threatening, coercing, or in any way discriminating against the individual) because of the individual's complaint or participation.

A school should take steps to prevent retaliation against a student who filed a complaint either on his or her own behalf or on behalf of another student, or against those who provided information as witnesses.

Schools should be aware that complaints of sexual violence may be followed by retaliation against the complainant or witnesses by the alleged perpetrator or his or her associates. When a school knows or reasonably should know of possible retaliation by other students or third parties, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the *complainant*³ and witnesses and ensure their safety as necessary. At a minimum, this includes making sure that the *complainant* and his or her parents, if the *complainant* is in elementary or secondary school, and witnesses know how to report retaliation by school officials, other students, or third parties by making follow-up inquiries to see if there have been any new incidents or acts of retaliation, and by responding promptly and appropriately to address continuing or new problems. A school should also tell *complainants* and witnesses that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

³ This section uses the term "complainant" as it is directly from the Office of Civil Rights.

Appeals

Each Institution must describe the appellate procedures (if appeals are permitted), including grounds for appeal, standards of review, the person/entity that will decide appeals, and the applicable reasonably prompt time frames (Not Alone, 2014). Each party's right to appeal will be clearly specified in the final decision letter. However, appeals should be established to "correct something that went wrong," not to obtain a second opinion. Appeals must be based on allegations that the party was denied some substantive or procedural due process right guaranteed to them or other right outlined in these policies or for presentation of information that was unknown or unknowable at the time of the original investigation. Parties should not be able to appeal a disciplinary proceeding result simply because they do not agree with the outcome. It is recommended that the university allow at least one level of institutional appeal by an individual or group who have received training. In no circumstances should a finding of suspension or dismissal be "stayed" pending the outcome of an appeal.

Outline Institutional Statistical Reporting Requirements

Colleges and universities, beginning with the 2013 calendar year, are required to maintain a good faith effort to collect and report statistics for IPV, and stalking (as defined by the Violence Against Women Act) occurring on-campus, on public property within and adjacent to campus, and at non-campus properties like off-campus student organization housing and remote classrooms. Institutions were already required to report sexual violence statistics (forcible and non-forcible sex offenses).

Institutions must collect statistics from a broad range of campus officials, identified as Campus Security Authorities (CSA). The Clery Act defines CSAs as (Russlynn, 2011)⁴:

1. A campus police department or a campus security department of an institution.
2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (1) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
4. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

Examples of individuals who meet the criteria are (Russlynn, 2011):

⁴ Although each institution may identify a broader group of mandatory reporters for Clery reporting purposes.

- A dean of students who oversees student housing, a student center or student extracurricular activities.
- A director of athletics, a team coach or a faculty advisor to a student group.
- A student resident advisor or assistant or a student who monitors access to dormitories.
- A coordinator of Greek affairs.
- A physician in a campus health center, a counselor in a campus counseling center or a victim/survivor advocate or sexual violence response team in a campus rape crisis center if they are identified by your school as someone to whom crimes should be reported or if they have significant responsibility for student and campus activities. However, if these individuals are not identified as people to whom crimes should be reported or do not have significant responsibility for student and campus activities, they would not be considered CSAs.

Examples of individuals who would **not** meet the criteria for being campus security authorities include (Russlynn, 2011):

- A faculty member who does not have any responsibility for student and campus activity beyond the classroom.
- Clerical or cafeteria staff.

In addition, the law does not limit an institution from more broadly identifying who are Campus Security Authorities for each college/university in order to obtain a more comprehensive representation of crime on campus. The law requires shielding personally identifying information of victims/survivors in order to protect the [confidentiality](#) of victims/survivors in these statistical disclosures as well as any public record keeping (i.e. locked non-moveable file cabinets) to the extent provided by law. (See details about confidentiality distinctions on page 27).

Specify Conduct Proceedings

Campus SaVE clarifies minimum standards for institutional disciplinary procedures covering IPV, stalking, and sexual violence. This document refers to victims/survivors as the reporting party, and the person being charged with a violation as the responding party. As discussed on page 6, these neutral terms are preferred over some of the common policy language that refers to victims/survivors as complainant or accuser.

Institutions must adopt and disclose policies that:

- a) Address possible sanctions or protective measures that may result from an institutional disciplinary proceeding.
- b) State the standard of evidence (which under current Title IX guidelines is preponderance of the evidence or more likely than not).
- c) Provide a prompt, fair, and impartial investigation and resolution.
- d) Proceedings must be conducted by officials who receive annual training on all forms of interpersonal violence (which includes IPV, stalking, and sexual violence), including on how to conduct an investigation, protect the safety of victims/survivors, and promotes accountability.

- e) Require that both the reporting and responding party are entitled to the same opportunities to have others present, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice (an institution may not meet this requirement by denying both parties the right to an advisor). Further, [2013 NC Law](#) allows responding party's from UNC System institutions to have full representation by an attorney.⁵
- f) Not limit the choice of advisor for either the reporting party or the responding party; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties and comply with state law.
- g) Require that both the reporting party and the responding party shall be simultaneously informed, in writing, of the following:
 - i. The outcome of any institutional disciplinary proceeding, including the behavior alleged (or policy violation), the decision, the sanction and the rationale therefore;
 - ii. The procedures for the reporting party and the responding party to appeal the results of the proceeding;
 - iii. Any change to the results; and
 - iv. When such results become final.

NCCADV recommends that institutions utilize and partner with the existing expertise of those in your community as you enhance your services to meet the above federal requirements. Please see page 36 of this document for a list of specific resources.

Publish an Annual Security Report

Campus SaVE also requires that institutions publish an Annual Security Report (ASR) each year. This report must document three calendar years of select campus crime statistics including security policies and procedures and information on the basic rights guaranteed to victims/survivors of sexual violence (including IPV and stalking). The law requires schools make the report available to all current students and employees, and prospective students and employees must be notified of its existence and given a copy upon request. Schools may comply with this requirement via the internet if required recipients are notified and provided exact information regarding the online location of the report. Paper copies of the ASR should be available upon request.

III. Additional Recommendations Not Required by Law

While these recommendations are not required by law, they were recommended from the [Office of Civil Rights 2011 Dear Colleague Letter](#) and clarified in the [April 2014 Office for Civil Rights Guidance](#). While specific to sexual harassment and misconduct, the recommendations still hold true for IPV, stalking, and

⁵ § 116-40.11. Disciplinary proceedings; right to counsel for students and organizations.
<http://www.thefire.org/pdfs/7485a661100a9e5a59bc7dcc3e655470.pdf>

sexual violence as institutions should prioritize the physical safety of their students by removing obstacles to reporting IPV, stalking, and sexual violence.

Amnesty Policy

Institutions should create as safe and comfortable spaces as possible so that as many victims/survivors who want to report to campus officials feel comfortable and safe doing so. Sometimes, victims/survivors and witnesses are hesitant to report to university officials because they fear that they themselves may be accused of policy violations, such as drug use or underage drinking at the time of the incident. An amnesty policy offers victims/survivors and witnesses amnesty whenever possible from other policy violations related to the incident. Sometimes policy violations cannot be overlooked, so it is therefore recommended that institutions provide educational options, rather than punishment, for violations identified when students have experienced IPV, stalking or sexual violence.

The Office of Civil Rights (OCR) suggests that “schools should consider whether their disciplinary policies have a chilling effect on victims” or other students’ reporting of sexual violence offenses” (Russlyn, 2011). The OCR provides the example that “schools inform students that the schools’ primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence” (Russlyn, 2011).

Responsible Action (Good Samaritan) Policy

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble. A Responsible Action policy pursues a policy of limited immunity for students who offer help to others in need. Sometimes policy violations cannot be overlooked, so therefore we recommend that institutions provide educational options, rather than punishment, for violations identified when students have offered their assistance to others in need.

Additional Recommendations by NCCADV

NCCADV makes the following recommendations that go beyond the federal requirements and recommendations in order to encourage reporting of IPV, stalking, and sexual violence based on review of the following:

- 1. Various college/university IPV, stalking, and sexual violence policies from institutions around the country*
- 2. Beyond Title IX: Guidelines for Preventing and Responding to Gender-based Violence in Higher Education (Fleck-Henderson, 2012)*

Parent/Guardian Notification Statement

The institution should provide a clear statement outlining their policies for notifying parents or guardians of student experiences. NCCADV recommends that institutions empower reporting

parties/victims/survivors to determine if and when they share information with parents or guardians about their experience.

Eliminate Financial Burden

Victims/survivors of IPV, stalking, and sexual violence may incur financial burdens as a result of the violence they experienced. This can include medical costs, fines associated with needing to change housing or parking, or potentially job loss. NCCADV recommends that campuses establish a protocol for consideration of resources to alleviate financial burden on students receiving care after IPV, stalking, and/or sexual violence.

Any policy should clarify any free services or financial support victims/survivors are eligible to receive, particularly as it relates to physical and mental health care, as well as on-going support navigating academic, campus conduct, or law enforcement systems. Ideally, the policy should also demonstrate a strong commitment to addressing IPV, stalking, and sexual violence by providing services for the victim/survivor that includes access to physical, and emotional care at no financial charge to the victim/survivor. Wherever possible, colleges and universities providing counseling services for students should provide victims/survivors with access to unlimited free counseling.

Further, institutions should consider a victim/survivor fund in which victims/survivors of IPV, stalking, and sexual violence can apply to alleviate financial burdens outside of the campus. This fund would also provide a [confidential](#) option for victims/survivors who may be reluctant to receive medical services due to the fear that their parents would find out. As most college students are still covered under their parent's insurance policy, they would likely be notified once medical costs were filed.

Safety warning

It is common for abusive current or former dating partners to track a victims/survivors whereabouts, including what they have searched online. Given this, it is highly recommended that institutions include a pop-up window once entering the college/university website of resources and services, as a warning to victims/survivors that the perpetrator could see their search history and to exit immediately if necessary. These pop-ups can also offer the opportunity to "block cookies" which would eliminate the tracking feature for that site on their computer. NCCADV offers a warning pop-up on their site:

<http://nccadv.org/>

Provide information online

Institutions should make all information about the policies and processes related to IPV, stalking, and sexual violence, as well as services related to prevention, intervention, and response available online, as well as through print media and personal contact. Doing so removes obstacles to reporting created by a fear of the unknown, as well as a lack of understanding of both IPV, stalking, and sexual violence themselves and the institutions philosophy toward IPV, stalking, and sexual violence.

Comprehensive information about campus policies and resources should be available within the college/university's website. Ideally, an individual should not have to click more than 3 times from the

college/university home page to access a complete listing (via current hot links) to resources and information.

Safety Plan (See Appendix A for a model safety plan)

Provide a template for a safety plan and note that it is best to complete with a trained campus professional staff member (e.g. advocate, counselor, police, etc.). Copies of developed safety plans should be provided to a trusted friend(s) or family for continuing assistance and support.

A safety plan should include:

- a. A list of safe people to talk to
- b. A list of safe spaces on and off campus
- c. Home/Residence Hall protocol – i.e. what to do if an emergency leave is necessary
- d. An established code word and who to share it with
- e. A list of items to pack if an emergency leave is necessary
- f. A list of people who should have a copy of the safety plan
- g. A list of ways to stay safe emotionally
- h. Emergency resources

Policy dissemination, updates, and feedback

Provide information to all community members annually regarding the location of the policy and resources, who and how updates are made to the policy, as well as contact information to provide feedback about the policy.

Reporting options

Students must know their reporting options and what will happen after they report. This includes providing clear definitions of prohibited conduct in the policy so that students are able to identify their experiences as misconduct. Students should be informed about to whom they can [confidentially](#) report their experiences, and which employees are [confidential](#) compared to “responsible employees” or “campus security” officials. (See details about these distinctions on page 27).

Character Witnesses

Character witnesses are not required as part of the hearing process. NCCADV recommends that character witnesses not be used as part of the hearing process. If you choose to use them, however, both the reporting party and the responding party must have an equal opportunity to present character witnesses. A character witness is a person who attests to another’s moral conduct and reputation in the disciplinary proceeding.⁶

College/University & Community Resource Team

Institutions should establish a resource team that will provide a comprehensive plan to both respond to and prevent IPV, stalking, and sexual violence. Members of the team should receive regular training around campus trends, responding to disclosures, reporting requirements, victim/survivor-centered

⁶ United States Government (2014). Not Alone Website.

response, current data and research, as well as relevant community assessments. Key college/university staff such as advocates and law enforcement should also serve on their community Domestic Violence Response Team and Sexual violence Response Team. These are often organized by their community-based domestic violence and rape crisis services centers. Key College/University Response Team

Members:

- Athletics
- Community law enforcement
- Community SV and DV centers
- Counselors
- District Attorneys
- Disability Services
- Faculty
- Faith-based leaders
- Health Services
- Housing
- Law Enforcement/Campus Security
- LGBTQI+ Center
- Library
- Local NC Domestic Violence Center/shelter where applicable
- Local hospital
- Local law enforcement
- Multicultural Center
- North Carolina Coalition Against Domestic Violence (NCCADV)
- North Carolina Coalition Against Sexual violence (NCCASA)
- Office of Student Conduct
- Other administrators
- Residential Life
- Sexual Assault Nurse Examiners (SANE)
- Student Affairs
- Student Government
- Student representatives
- Threat Assessment
- Title IX Coordinator
- Women's Center

IV. Include a Summary of Current Relevant Federal Legislation

Title IX of the Education Amendments of 1972 prohibits sex discrimination in educational programs and activities receiving federal financial assistance. Colleges and Universities face potential loss of federal funding if they are found in violation of Title IX. The [Revised Sexual Harassment Guidance of 2001](#)

outlines requirements of educational institutions related to sexual harassment and sexual violence, such as a school's obligation to respond and procedural requirements. In addition, the "Dear Colleague" letter clarified and reiterated from the 2001 Guidance, steps for preventing sexual harassment and sexual violence as well as remedying the impact that sexual harassment and sexual violence have had on a reporting party. It is also important to note the following cases: *Franklin v. Gwinnett* 1991, *Gebser v. Lago* 1998, and *Davis v. Monroe* 1999 as significant touchstones in the evolution of the law and school's obligations.

Prior to 1988, less than 4% of American colleges publicly reported crimes that occurred on their campuses (McMahon, 2008). In response to a movement generated by the family of Jeanne Clery, a student who was tortured, raped, and murdered in her dormitory room, Pennsylvania passed legislation requiring mandatory reporting of crime on Pennsylvania institutions of higher education campuses. Public persistence with leadership by the Clery family demanded action on a national level. Federal response included several laws initially formulated in 1990 as the [Student Right-To-Know and Campus Security Act](#). The 1990 Act was amended in 1992 and again in 1998, when it was titled the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics. Also significant, was the creation of the Violence Against Women Act of 1990.

In 1999, Congress responded to the public's concern over the incidence of sexual violence on college campuses by mandating that the [National Institute of Justice](#) (NIJ), the "research, development and evaluation agency of the United States Department of Justice," assess Institutions of Higher Education (IHE) compliance with the Clery Act. Specifically, the NIJ explored IHE adherence to federal laws that require IHE to: (1) make public their on-campus crime statistics, (2) publicize prevention and actions designed to respond to crime, (3) institute crime logs, and (4) demonstrate that the rights of victims of sexual violence are preserved (Karjane, Fisher, & Cullen, 2005).

[The Office for Civil Rights \(OCR\) of the United States Department of Education](#) is the enforcement agency for Title IX of the Education Amendments of 1972, a law prohibiting sex discrimination in federally funded educational programs and activities. The OCR has offered guidance on several occasions on the role of [Title IX](#) with regard to sexual violence. Notably, in 1997 and 2001, the OCR issued guidance "provid[ing] the principles that a school should use to recognize and effectively respond to sexual harassment of students" (Revised Sexual Harassment Guidance, 2001). Most recently, in 2011, the OCR issued a "[Dear Colleague](#)" letter clarifying colleges' and universities' responsibilities concerning sexual violence and sexual harassment. The "Dear Colleague" letter stressed the need for schools to interpret incidents of sexual violence under the rubric of sexual harassment. Consequently, under Title IX colleges and universities must take immediate and effective steps to respond to sexual violence. These steps include taking action to investigate, to stop the behavior, remediate the impact on the victim/survivor and reasonably prevent the recurrence. A critical aspect to effective response is that sexual violence and harassment policies are compliant with Title IX.

While Title IX has been in existence since 1972, it wasn't until the Franklin v. Gwinett case in 1992 that the US Supreme Court recognized Sexual Harassment/Violence as a behavior under Title IX. Still, over the last 23 years, the federal government has addressed sexual violence on college campuses. IPV, stalking, and sexual violence, while implied, have not been directly addressed in these requirements until March 2013. The Campus Sexual Violence Elimination Act, or Campus SaVE, was part of the Violence Against Women Act 2013 Reauthorization and is an expansion to the federal Jeanne Clery Act. Campus SaVE was designed by advocates along with victims/survivors and championed by a bi-partisan coalition in Congress as a companion to Title IX. President Obama signed the measure into law on March 7, 2013. Campus SaVE has given teeth to previous federal guidance and recommendations, now requiring institutions to actively work towards eliminating IPV, stalking, and sexual violence. Campus SaVE requires colleges and universities, both public and private, participating in federal student aid programs (covering virtually every college/university in the United States) to (Summary of the Jeanne Clery Act, n.d.):

- 1) Increase transparency about the scope of sexual violence (to include IPV, stalking, and sexual violence) on campus
- 2) Guarantee victims'/survivors' enhanced rights
- 3) Provide for standards in institutional conduct proceedings
- 4) Provide campus community wide prevention educational programming.

Further, Campus SaVE establishes collaboration between the [U.S. Departments of Justice, Education, and Health and Human Services](#) to collect and disseminate best practices for preventing and responding to IPV, stalking, and sexual violence. Schools must include their prevention education programs in their October 2014 Annual Security Report. While Campus SaVE regulations do not take effect until July 1, 2015, the VAWA statutory provisions already are in effect, and there are many steps that institutions should take now to ensure legal compliance.

When Campus SaVE takes full effect, students and employees will have many important, additional rights and options to seek redress if they have been the victim of an act of IPV, stalking, or sexual violence. The U.S. Department of Education's Clery Act Compliance Division has the power to investigate alleged violations and to enforce these provisions. If an institution is found to be in violation of the Clery Act they may face a warning, civil penalties up to \$35,000 per violation, the limitation or suspension of federal student aid eligibility, or the loss of eligibility to participate in federal student aid programs (Summary of the Jeanne Clery Act, n.d.).

V. Provide a Definition of Terms

The definitions below are direct language from the 2013 VAWA Reauthorization, Campus SaVE Act. Definitions 1-4 are the definitions required for Clery reporting. These are a helpful guide for you as you develop your college/university policy definitions. As a reminder, institutions must provide students with policy definitions for IPV, stalking, sexual violence, and consent. Institutions have the flexibility to

define these themselves. (Please refer to the Template for recommended definitions on page 47. See below under “Additional Considerations” on page 26 for more guidance).

1. Domestic Violence

(1) A felony or misdemeanor crime of violence committed:

- (i) By a current or former spouse or intimate partner of the victim;
- (ii) By a person with whom the victim shares a child in common;
- (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (v) 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 jurisdiction in which the crime of violence occurred.

(2) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime. This definition includes same sex relationships.

2. Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(1) The existence of such a relationship shall be determined by the victim with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(2) For the purpose of this definition-

- (i) Dating violence includes sexual or physical abuse or the threat of such abuse.
- (ii) Dating violence does not include acts covered under the definition of domestic violence.

(3) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime. This definition includes same sex relationships.

3. Sexual Violence

An act of sexual violence includes the the following:

(1) Sex Offenses: Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

(2) Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

(3) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable

of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

(4) Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(5) Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

4. Stalking

(1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for his or her safety or the safety of others; or

(ii) Suffer substantial emotional distress.

(2) For the purpose of this definition:

(i) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

(ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) Reasonable person means a reasonable person in the victim's circumstances.

(2) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime.

5. Consent

Campus SaVE does not provide a definition of consent, however it does require that institutions include the definition of consent in their sexual misconduct policy or combined gender violence policy. This definition must include both the college/university definition as well as the statutory language around consent in their state. Below is an example of a recommended definition of consent.

Consent is an affirmative decision to engage in mutually acceptable sexual activity expressed by clear actions or words. It is an informed decision made freely, willingly, knowingly, and actively by all parties. Consent is expressed voluntarily. Consent is active not passive. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Silence, in and of itself, cannot be interpreted as consent.

In the absence of mutually understandable words or actions (a meeting of the minds on what is to be done, where, with whom, and in what way), it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity to make sure their partner(s) has given voluntary consent.

Conduct will be considered “without consent” if no clear consent, verbal or nonverbal, is given. It is important to not make assumptions; if confusion or ambiguity on the issue of consent arises anytime during the sexual interaction, it is essential that each participant stops and clarifies, verbally, their willingness to continue. In the state of North Carolina, individuals cannot legally give consent if they are incapacitated due to alcohol or legal or illegal drugs. Also, the age of consent in North Carolina is 16 and further defined that sexual intercourse with someone who is under the age of consent is only illegal if the defendant is: (1) at least 4 years older than the victim/survivor and (2) at least 12 years of age.

An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, blackouts, flashbacks, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to sexual contact.

Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, incapacitation is a state beyond intoxication, impairment in judgment or “drunkenness.” Incapacitation is determined by how the drugs or alcohol consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the responding party knew, or a sober, reasonable person in the position of the responding party should have known, that the victim/survivor was incapacitated. Because incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give effective consent.

Individuals reach incapacitation levels due to drugs and/or alcohol in different ways. For some people, one drink can render them incapacitated. For others it could take five drinks. As such, the important factor to determine incapacitation is state of mind (being able to appreciate the “who, what, where, when or how” of a situation), not the amount of drugs and/or alcohol ingested.

Individuals are **NOT** giving consent if they are:

- saying “no” or “stop”
- crying
- completely still/disengaged
- incapacitated by drugs or alcohol
- moving away
- pushing the other(s) away
- drugged/high
- asleep
- mentally or physically impaired
- beaten
- threatened
- confined
- passed out
- physically or psychologically pressured or forced
- intimidated
- coerced
- manipulated

Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent must be provided contemporaneous with the behavior. Agreeing to engage in a sex act on Thursday does not mean that agreement remains in effect indefinitely.

Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly through actions or words. If consent is withdrawn, all sexual activity must cease.

Additional Considerations

The following are additional considerations, not specified through federal statutes or guidance, however are included as suggestions to make the definitions more comprehensive.

- a) Consider IPV, stalking, and sexual violence as a broad continuum of behaviors. The term IPV is a broad continuum of physically and emotionally abusive behaviors* that includes** but is not limited to:
 - Coercion
 - Cultural abuse
 - Digital (technological) abuse
 - Economic abuse
 - Emotional/psychological abuse
 - Forced substance use or abuse
 - Removing access to medication or assistive devices
 - Intimidation
 - Isolation
 - Minimizing, blame, and denial of abuse
 - Physical violence
 - Sexual violence
 - Stalking
 - Threats
 - Use of privilege
- b) Provide definitions for victim/survivor, perpetrator, and partner.
- c) Use gender nonspecific pronouns.
- d) Clearly define coercion under consent as an unreasonable amount of pressure, as assessed by reviewing the duration, isolation, frequency and intensity of the circumstances that led to the sexual encounter.
- e) Policies should make absolutely clear that entering into or maintaining a dating relationship does not indicate consent to emotional, physical, sexual, or financial violence perpetrated by one's partner (Campus Dating Violence Policy Guide, 2015).
- f) Policies should clearly prohibit both physical and cyber stalking and harassment (Campus Dating Violence Policy Guide, 2015).

* Full definitions for these terms can be found on page 47.

** The judicial system might use other terms, or define these terms differently.

VI. Confidentiality and Reporting Procedures

Confidentiality Considerations

Institutions must identify how the Institution will protect the confidentiality of victims/survivors, including how publicly-available record-keeping will be accomplished without the inclusion of identifying information about the victim/survivor, to the extent permissible by law. Policies should do the following:

- 1) Clearly state that only individuals who have a need to know, or to whom the victim/survivor has provided information. Access about the issue should be informed, and materials and information should be shared only as necessary with investigators, witnesses, and other relevant parties. Disclosure of such information may be made if it is determined that such disclosure is necessary due to serious and imminent threat to the community. Pattern, prediction, threat, or violence (PPTV) is a common tool used to assess these circumstances. In these events, the victim's/survivor's name and identifying information should not be included.
- 2) Explain that while any request made by a victim/survivor that a matter not be investigated should be taken into account, appropriate steps should be taken to respond to the matter in cases of serious and imminent threat to the community.
- 3) Inform victims/survivors of the confidential resources available to them both on campus and in the community.
- 4) State that victims/survivors can seek assistance from off-campus crisis centers, which can maintain confidentiality. Include names and contact information of these centers.
- 5) Clearly state which types of staff and faculty members are not confidential resources and have an obligation to inform campus authorities of any reports of IPV, stalking, or sexual violence.

Responsible Employees

The Office of Civil Rights (OCR) requires that certain employees on campus be deemed Responsible Employees. According to OCR's 2001 Guidance, a responsible employee includes any employee:

- 1) Who has the authority to take action to redress IPV, stalking, or sexual violence;
- 2) Who has been given the duty of reporting incidents of IPV, stalking, sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee (typically these are managers and supervisors);
- 3) Or anyone to whom a student could reasonably believe has this authority or duty. A school must make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. A school must also inform all employees of their own reporting responsibilities and the importance of informing the reporting party of:
 - a. The reporting obligations of responsible employees;
 - b. Reporting parties' option to request confidentiality and available confidential advocacy,

- counseling, or other support services;
- c. And reporting parties' right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

When a responsible employee knows or reasonably should know of possible IPV, stalking, or sexual violence, OCR deems a school to have notice of the sexual violence. The school must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the [confidentiality](#) provisions), and, if the school determines that sexual violence created a hostile environment, the school must then take appropriate steps to address the situation (Questions and Answers on Title IX, 2014). The US Department of Education, Office for Civil Rights' [Questions and Answers on Title IX and Sexual Violence](#) 2014 Guidance is an excellent resource for understanding details around responsible employees.

Private and Confidential Employees

Medical professionals, professional counselors, and pastoral counselors can provide completely [confidential](#) support services to victims/survivors of IPV, stalking, or sexual violence. Further, individuals who are not professional or pastoral counselors, but who work or volunteer in on-campus domestic violence and/or rape crisis centers, victim/survivor advocacy offices, women's centers, or health centers, including front desk staff and students, and provide assistance to students who experience IPV, stalking, or sexual violence should inform the reporting party of their obligation to report aggregate data, but not report, without the student's consent, incidents of IPV, stalking, or sexual violence to the school in a way that identifies the student (Intersection of Title IX and the Clery Act, 2014). It is highly recommended that institutions designate [confidential](#) resources for victims/survivors as without this option, students can be less likely to ever report an incident. There are two categories of private and [confidential](#) employees:

- 1) **Confidential: Campus Professional and Pastoral Counselors:** Professional, licensed counselors and pastoral counselors whose job responsibility it is to provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident(s) to the Title IX coordinator without a victim's/survivor's permission.
- 2) **Confidential or Private: Campus Non-professional Counselors and Advocates:** Individuals who work or volunteer in the on-campus sexual violence center, victim/survivor advocacy office, women's center, health center etc., including front desk staff and students, can generally talk to a victim/survivor without revealing any personally identifying information about an incident(s) to your institution. This however will depend on your institutions designation of [confidential](#) versus private reporting sources, as well as potential state laws. A victim/survivor can disclose to and seek assistance and support from these individuals without activating an investigation that could reveal the victim's/survivor's identity or that the victim/survivor has disclosed the

incident(s) (Sample Language for Reporting, 2014). While maintaining a victim's/survivor's [confidentiality](#)⁷ of identity, these individuals or their office will report the nature, date, time, and general location of an incident(s) to the Title IX Coordinator. This limited report – which includes NO information that would directly or indirectly identify the victim/survivor – helps keep the Title IX Coordinator informed of the general extent and nature of IPV, stalking, and sexual violence, on and off-campus, so the Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim/survivor to ensure that no personally identifying details are shared with the Title IX Coordinator.

*New guidance from the Department of Education in April 2014 makes clear that on-campus counselors and advocates – like those who work or volunteer in sexual violence centers, victim advocacy offices, women's and health centers, as well as licensed and pastoral counselors – can talk to a survivor in confidence⁸. In recent years, some schools have indicated that some of these counselors and advocates cannot maintain [confidentiality](#). This new guidance clarifies that they can.

Read more in the “Resources” section on page 36 about clearly naming these resources and their designation as [confidential](#) or not.

Reporting Options

Clearly identify the procedures available to victims/survivors of IPV, stalking, and sexual violence. Institutions should encourage students to report any IPV, stalking, or sexual violence offenses, while stating that the victim/survivor has the right to decline notifying authorities.

Institutions should include procedures for filing the various types of reports below:

- 1) **Anonymous** – a reporting system that allows for victims/survivors and third-parties to report incidents online or in written form. An anonymous reporting pathway will encourage reporting by students without risk of exposure or being forced to file charges. Because this is unofficial, the police cannot make an arrest based on this report, but it will provide useful information regarding the types of assaults that are occurring at the institution.
- 2) **Confidential** – reports made to employees who have no reporting requirements (i.e. counselors, advocates, clergy, etc.), *with the ethical exception of when there is potential harm to self or others*.
- 3) **Formal** – a report made resulting in an investigation through the student disciplinary process.
- 4) **Non-confidential** – reports made to individuals who must report to the Title IX coordinator all known information, including the nature, date, time, and general location of the incident, and the identities of the victim/survivor and alleged perpetrator. If the reporting party requests

⁷ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

⁸ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

confidentiality, the recipient of the report must report that to the Title IX Coordinator; however confidentiality is not promised or guaranteed.

- 5) **Quasi-confidential** –reports made in which the receiver of the information must provide information to the Title IX coordinator the nature, date, time, and general location of an incident, if known, but no information that would directly or indirectly identify the reporting party or victim/survivor.
- 6) **Third-party** – reporting options, often anonymous, for witnesses or acquaintances of those involved in the incident.

Reporting Considerations

See section above for details about types of confidentiality. Below is a guide for institutions as they develop reporting procedures:

- 1) Provide a very clear and visible statement that reports of same-sex and different-sex IPV, stalking, and sexual violence are encouraged and will be taken seriously and respectfully.
- 2) Address the importance of preserving evidence that may be needed to prove an act of IPV, stalking, or sexual violence has occurred. State the fact that collecting evidence does not require a victim/survivor to press charges against an alleged perpetrator, but may simply assist investigators should the victim/survivor decide to file a formal report of the offense at a later point.
- 3) Clearly state to whom the alleged offense should be reported, including the victim’s/survivor’s options to formally or informally report the alleged offense. Informal reporting options may result in accommodations such as changes in class schedule, housing arrangements, etc. In addition to accommodations, formal reporting options may also result in campus law enforcement notification.
- 4) Outline campus-specific confidential reporting options for victims/survivors.
- 5) Provide information for victims/survivors on their options regarding reporting to law enforcement and campus authorities, including notification of their option to:
 - a. Notify the proper law enforcement, including on-campus and local police.
 - b. Be assisted by campus authorities in notifying law enforcement.
 - c. Decline to notify law enforcement.
- 6) Develop a primary prevention-based Timely Warning. If possible, and the victim/survivor wants to, they should assist law enforcement (or whoever develops the warnings for your institution) in determining the language for the warning. (Please see Appendix B for recommended language).
- 7) Outline the victim’s/survivor’s rights and process for obtaining, as well as the institution’s specific responsibilities regarding, criminal orders of protection, Institution-issued no-contact orders, civil restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.
- 8) Clearly state anonymous reporting procedures. Anonymous reports do not typically result in the initiation of a formal disciplinary proceeding, although the Institution is responsible for

investigating all reports of IPV, stalking, and sexual violence to ensure safety in the community. Anonymous reports will result in data collection for the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, and may be significant in identifying patterns or systemic issues.

- 9) Schools should establish a memorandum of understanding (MOU) between campus police and local law enforcement to ensure that civil protection orders are fully enforced on campus and off (Campus Dating Violence Policy Guide, 2015). [The Not Alone document provides a helpful example](#) of an MOU.
- 10) Schools should establish an MOU with community-based domestic violence and rape crisis service providers to ensure IPV, stalking, and sexual violence victims/survivors receive the support they desire (Campus Dating Violence Policy Guide, 2015).
- 11) Hearing recommendations: It is recommended that all institutions work with a single investigator model, and not a full hearing board, when addressing cases of IPV, stalking, and sexual violence. If your institution does not yet have the capacity to use this model, and a hearing board system is currently in place, it is strongly recommended that the following be taken into consideration:
 - a. Students should never be on the hearing board.
 - b. Hearing boards should never serve as an investigative body, but rather only as a determinative body.
 - c. Hearing boards can be a part of the process in determining a finding, or as a second review from an investigation recommendation, or as a sanctioning or appeal body.
 - d. The Title IX Coordinator or a designee with significant experience investigating IPV, stalking, and/or sexual violence cases should be part of the investigative process.
 - e. It is recommended that the Title IX Coordinator or designee observe the hearing and the hearing board's deliberations. In this scenario, the Title IX Coordinator does not participate as a decision-maker, but is present as a resource to the board to advise the board on Title IX compliance within the hearing process.
- 12) Schools should hire extensively trained investigators and adjudicators who understand the [dynamics](#) of relationships in which one is being abused, which are often counter-intuitive and can take years (not hours) of education to comprehend. Trained individuals will understand the types of abuse and the varying tactics perpetrators use to control and manipulate the victim/survivor (often without physical or sexual violence), as well as the reality that most victims/survivors never leave an abusive partner or successfully do so only after a number of attempts. Further suggested training topics include the psychological consequences of IPV, stalking, and sexual violence on victims/survivors, the dangers of leaving the relationship, the spectrum of violence including emotional, psychological, physical and sexual, and signs of abuse, and the neurobiological responses of a trauma victim/survivor (Campus Dating Violence Policy Guide, 2015).
- 13) Schools should not permit responding parties to introduce personal details about victims'/survivors' mental health in disciplinary proceedings unless mental health goes towards

proving or disproving an essential element of the case. (Campus Dating Violence Policy Guide, 2015).

- 14) Schools should not permit responding parties to introduce personal details regarding the victims'/survivors' sexual history with anyone other than the responding party. Those designated to investigate and hear these cases will receive training that explains that the mere fact of a previous consensual sexual relationship does not itself imply consent or preclude a finding of sexual violence (Campus Dating Violence Policy Guide, 2015). The sexual behavior of the reporting party is irrelevant to any issue in the disciplinary process unless such behavior:
 - (1) Was between the reporting party and responding party; or
 - (2) Is evidence of specific instances of sexual behavior offered for the purpose of showing that the act or acts charged were not committed by the responding party; or
 - (3) Is evidence of a pattern of sexual behavior so distinctive and so closely resembling the responding party's version of the alleged encounter with the reporting party as to tend to prove that such reporting party consented to the act or acts charged or behaved in such a manner as to lead the responding party reasonably to believe that the reporting party consented; or
 - (4) Is evidence of sexual behavior offered as the basis of expert psychological or psychiatric opinion that the reporting party fantasized or invented the act or acts charged.
- 15) Schools should implement a *standard* (not mandatory) expulsion policy. Many victims/survivors of IPV, stalking, and sexual violence feel reluctant to report the alleged perpetrator out of concern that someone they love or loved will be expelled automatically/unconditionally. Sometimes that reluctance changes as a victim/survivor meets other victims/survivors of the same alleged perpetrator, or as they progress through the reporting process. Regardless, it is critical that schools preserve victims'/survivors' control over the process, and take care not to dissuade them from reporting by instituting a mandatory expulsion policy (Campus Dating Violence Policy Guide, 2015).
- 16) Schools should not penalize victims/survivors who have obtained civil protection orders (which often include distance requirements) by keeping them out of a disciplinary hearing room if they wish to be present in person. If a protection order is in effect, schools should ensure that the burden of complying with that order falls squarely on the responding party, who can then participate by having a partition during the hearing or through video software such as a closed-circuit camera (Campus Dating Violence Policy Guide, 2015).

VII. Victim/Survivor Rights

As required by [Campus SaVE](#), both the reporting party and responding party must be offered equal rights. Further, victims/survivors must be offered as many forms of assistance and support as possible to decrease the hostile campus environment. Examples include:

1. Identify how the Institution will protect the [confidentiality](#) of victims/survivors, including how publicly-available record-keeping will be accomplished without the inclusion of identifying information about the victim/survivor, to the extent permissible by law.
2. Clearly state that only individuals who have a need to know about the issue should be informed, and materials and information should be shared only as necessary with investigators, witnesses, and other relevant parties. Disclosure of such information may be made if it is determined that there is a serious and imminent threat to the community. In these events, the victim's/survivor's name and identifying information should not be needed.
3. Explain that while any request made by a victim/survivor that a matter not be investigated should be taken into account, appropriate steps should be taken to respond to the matter in cases of serious and imminent threat to the community (Campus Dating Violence Policy Guide, 2015).
4. Inform victims/survivors of the resources available that can provide [confidentiality](#), sharing options and advice without any obligation to inform other College/University staff members, unless requested by the victim/survivor. For example counseling services, health and mental health services, and ministry staff. Additionally, victims/survivors can seek assistance from off-campus crisis centers, which can maintain [confidentiality](#)⁹. Clearly state which college/university staff and faculty are "responsible employees" and thus are not confidential resources and have an obligation to inform campus authorities of any reports of IPV, stalking, or sexual violence.

VIII. Assistance and Support

Inform victims/survivors of IPV, stalking, and sexual violence of their options for, and available assistance in, changing academic, living, transportation, and working situations if such assistance and support are available. These services should be available to victims/survivors whether or not they choose to report the offense to Campus Security Authorities.

- 1) At the victim's/survivor's request, and depending on the risk and lethality of the individual situation, schools should consider removing the alleged perpetrator from victim's/survivor's residence hall, classes, or other shared spaces. If it is not possible to remove a particular alleged perpetrator, schools should assist the victim/survivor in seeking alternate housing (and/or lock changes), and academic and other types of assistance and support. Schools should ensure [confidentiality](#) and privacy for victims/survivors (Campus Dating Violence Policy Guide, 2015).
- 2) An institution should never release directory information that a student requests be kept private. Many victims/survivors of IPV, stalking, or sexual violence live in fear of the perpetrator discovering where they live. Schools can assist victims/survivors with the [North Carolina Address Confidentiality Program](#) as well (Campus Dating Violence Policy Guide, 2015).
- 3) Schools should offer and enforce campus-based no-contact orders when both the reporting and responding parties are students enrolled at the Institution (regardless of whether victims/survivors have obtained court-issued protection orders). This should also be available to

⁹ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

students who request them against a faculty or staff member. Campus no-contact orders should prohibit the alleged perpetrator from contacting the victim/survivor in person, via technology, or through a third-party (e.g., mutual friends). Schools should explicitly state the consequences for breaking a no-contact order (and, if there are none, schools should make this clear so that victims/survivors can seek other protective measures) (Campus Dating Violence Policy Guide, 2015).

- 4) While we recognize that not all institutions can guarantee this, we recommend that they make clear that victims/survivors will suffer no academic penalties for missing class to secure a civil protection order or other forms of assistance and support. Additionally, school administrators should assist victims/survivors with academics (including extensions on assignments, papers, and exams) and additional academic support services (Campus Dating Violence Policy Guide, 2015).
- 5) Schools should ensure victims/survivors can access services 24/7 and should provide *free* transportation to a local hospital (e.g., for a forensic evidence exam), court (e.g., to obtain a civil protection order/restraining order), and counseling (e.g., if your school does not provide adequate counseling services for IPV, stalking, and sexual violence survivors on campus) (Campus Dating Violence Policy Guide, 2015).
- 6) Provide victims/survivors of IPV, stalking, and sexual violence with assistance and support, if requested, to ensure that they can remain students at the College/University, meet academic standards, obtain necessary health/mental health treatment, and maintain social relationships.
- 7) Assistance and support should include, but not be limited to, the following:
 1. Academic support and tutoring
 2. Change in academic schedule
 3. Change in course load, including reduced course load or alternative assignments
 4. Excused class absence for treatment, hospitalization, and medical or mental health conditions
 5. Retrospective withdrawal from classes
 6. Immediate withdrawal from a class
 7. Offer victim/survivor option for independent study
 8. Leave of absence from the institution
 9. Referral to health services
 10. Victim/survivor advocate services
 11. Arranging dining schedules
 12. Arranging study area schedules
 13. Security escorts
 14. Housing assistance
 15. Change in on-campus work schedule
 16. Access to community resources
 17. Provision of resources for medical and/or psychological support
 18. Imposition of interim suspension for the alleged perpetrator
 19. Limiting an alleged perpetrator's access to engage in activities
 20. Any other reasonable safe forms of assistance and support as requested by victim/survivor to aid them in feeling safe and supported

IX. Sanctions

Identify possible sanctions that the College/University may impose following a final determination of institutional disciplinary proceeding regarding IPV, stalking, and sexual violence. Appropriate sanctions for IPV, stalking, and sexual violence offenses include, but are not limited to the following (Intimate Partner Violence Policies on Campus, 2014):

1. **Changes in Academic Schedule:** Requiring the responding party to make changes in class schedule to ensure that no classes are shared with the victim(s)/survivor(s).
2. **Community Restitution:** Requiring the responding party to perform a certain number of service hours either on-campus or in the community. It is not appropriate to send them to an office that regularly works with victim/survivors such as a counseling center, women's center, student health or DV/SA office.
3. **Educational Intervention:** Requiring the responding party to participate in online and/or physical classes addressing issues such as IPV, stalking, and sexual violence. This may include facilitating a program, creating educational posters regarding institutional policies and student conduct, and writing a paper.
4. **Expulsion:** A permanent separation from institution that involves denial of all student privileges, including entrance to the institution premises and matriculation.
5. **Probation:** A status that indicates either serious misconduct not warranting expulsion, suspension, or removal of institutional privileges, or repetition of misconduct after a warning has been imposed.
6. **Referral for Assessment or Counseling:** Requiring the responding party to meet with a staff member of the (Health/Counseling Center) to have an assessment of their mental health and lifestyle choices. The Health/Counseling Center may also recommend further evaluation and participation in counseling services. May be on or off campus health/counseling center.
7. **Removal of College Privileges:** Restrictions on the responding party's access to certain locations, functions, organizations, teams, and/or activities; does not preclude the student from continuing their academic program.
8. **Removal or Non-Renewal of Scholarships:** Institution-administered scholarships are not awarded or are not renewed to students that have violated the student code of conduct.
9. **Residential Reassignment:** Removes the responding party from current residence and reassigns to a new room. Specific restrictions on access to one's previous residence may be imposed.
10. **Restitution/Fines:** The responding party may be fined for violations of the policies and procedures outlined by the institutions. The individual may be required to make a payment to the institution and/or another person or group for damages incurred as a result of the violation.
11. **Suspension:** A temporary separation from the institution that involves denial of all student privileges, including entrance to campus premises, and may include conditions for reinstatement, such as successful completion of a counseling or treatment program. A warning of actual suspension may be imposed if counseling or treatment is not successfully completed.

12. **Termination of Residency:** Loss of on-campus housing, without refund, and/or dining privileges, permanently or for a specified period of time.
13. **Transcript Entry:** May be implemented on its own or in combination with another sanction. The entry will indicate that a student was found responsible for IPV, stalking, and/or sexual violence. Expulsions and suspensions are also permanently recorded on a student's transcript.
14. **Withholding of Degree:** The institution maintains the right to withhold the awarding of a degree otherwise earned until the completion of any imposed sanctions.

Mediation should never be an option. Mediation is a negotiated resolution between two parties, therefore, placing an alleged perpetrator and victim/survivor in the same space to address the abuse can put the victim/survivor at risk for future abuse. Additionally, the institution must be a part of the resolution in order to ensure safety mechanisms are in place for the victim and for the campus. Victims/survivors are likely to not share any abuse, or significantly minimize the abuse out of fear of retaliation from the perpetrator. Mediation may also imply that both parties are responsible for the abuse, when in fact only the perpetrator is responsible for their behavior.

XI. Resources

Provide, in writing, a list of names, addresses, and phone numbers of on-campus and off-campus community resources available for students regarding IPV, stalking, and sexual violence:

- Athletics
- Campus advocate
- Campus and community-based culturally-specific resources
- Campus law enforcement
- Campus response team
- Civil Clerk's Office
- Community counseling services
- Community SV and DV centers
- Dean of Students
- Director of Residential Life
- Disability Services
- District Attorney's Office (include whether they have a specialized DV/SV unit)
- LGBTQI+ Center
- Local hospital
- Local Legal Aid Office
- Local NC Domestic Violence Center/shelter where applicable
- Local police departments (include whether they have a specialized DV/SV unit)
- Magistrate's Office
- NCCADV
- NCCASA
- Off campus medical care
- Office of Civil Rights (OCR)
- On-campus counseling
- On-campus medical care
- SANE Program
- Sheriff's department (include whether they have a specialized DV/SV unit)
- Title IX Coordinator

XII. Include State Laws & Other College/University Policies

State laws must be included in your IPV, stalking, and sexual violence policies. See Appendix C for the full statute language.

As you develop and update your policies, it is crucial that you:

1. Include guidance about which other policies may be relevant;
2. Indicate who/how a situation would be determined if a situation falls under multiple policies (e.g. IPV/stalking/Sexual Violence Policy and Alcohol and Drug policy), including if one policy trumps another (i.e. which policy would take precedence);
3. Update policies that may need to change as a result of updating your IPV/Stalking/Sexual Violence Policy.

Examples of related/conflicting policies may include:

- Acts of Harm policy
- Alcohol/drug policy
- Amnesty policy
- Community living standards or housing rules/contract
- Discrimination and harassment
- Honor code/conduct code
- Minors on campus
- Relationship policy between supervisors/professors and students/employees
- Responsible Action/Good Samaritan policy
- Sexual harassment
- Threat assessment policy

XIII. References

All pertinent North Carolina statutes on domestic violence and sexual violence offenses can be found at:

- http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_50B.html
- http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_7A.html

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College and University Domestic Violence, Dating Violence, Stalking and Sexual Violence Prevention and Response Model Policy Template



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College and University Domestic Violence, Dating Violence, Stalking, and Sexual Violence Prevention and Response Model Policy for Students

I. Welcome Statement*

[YOUR INSTITUTION] believes that every person has the basic human right to live free from violence and [YOUR INSTITUTION] is determined to provide a campus environment free of violence for all members of the campus community. For this reason, [YOUR INSTITUTION] does not tolerate domestic violence, dating violence, stalking, or sexual violence and will pursue the student-perpetrators of such acts to the fullest extent possible. [YOUR INSTITUTION] is committed to supporting victims/survivors of domestic violence, dating violence, stalking, and sexual violence through the appropriate provision of safety and support services. This policy applies to all students of the [YOUR INSTITUTION] community, regardless of race, color, national origin, sex, disability, ethnicity, religion, gender identity, gender expression, sexual orientation, age, education, or socio-economic status.

Domestic violence, dating violence, stalking and sexual violence are crimes in North Carolina and are subject to criminal prosecution. Students perpetrating such acts will be subject to disciplinary action through [YOUR INSTITUTION] Office of [Appropriate Division Office]. This can include expulsion from [YOUR INSTITUTION] and/or criminal prosecution simultaneously.

Domestic violence, dating violence, stalking and sexual violence, occur at alarming rates on the nation's college campuses. Domestic violence, dating violence, stalking and sexual violence are committed against individuals of all gender identities, races/ethnicities, religions, ages, abilities, sexual orientations, and classes. Often every aspect of a victim's/survivor's life is affected. Domestic violence, dating violence, stalking, and sexual violence are a pandemic and require an immediate and ongoing response from [YOUR INSTITUTION]:

Dating and Domestic Violence

- 43% of dating college women report experiencing some violent and abusive dating behaviors including physical, sexual, tech, verbal or controlling abuse.¹⁰
- Nearly one third of college students reported having physically assaulted a dating partner in the previous 12 months.¹¹

¹⁰Knowledge Networks for Liz Claiborne, Inc. (2011). 2011 College Dating Violence and Abuse

¹¹Knowledge Networks for Liz Claiborne, Inc. (2011). 2011 College Dating Violence and Abuse

- 1 in 5 college women (22%) report physical abuse, sexual abuse, or threats of physical violence.¹² The same study also revealed that more than half of college students surveyed (57%) said that it's difficult to identify dating abuse and 58% said that they don't know what to do to help someone who is a victim of dating abuse.
- College-age women experience the highest rate of nonfatal intimate partner violence.¹³
- More than 40% of LGBTQ+ college students (lesbian, gay, bisexual, transgender, queer, questioning and other non-heterosexual identities) report that they have experienced intimate partner violence in their current relationships, a rate that generally aligns with the rate of violence among heterosexual couples.¹⁴

Sexual Violence

- In a study of undergraduate women, 19% experienced attempted or completed sexual assault since entering college.¹⁵
- Among college students who were sexually assaulted, 35% of attempted rapes occurred on dates, 22% of threatened rapes occurred on dates, and 12% of completed rapes occurred on dates.¹⁶
- 3.5% of undergraduate women reported experiencing rape or attempted rape during a 6–7-month academic year.¹⁷
- 6.4% of college-aged men perpetrate rape.¹⁸
- 90% of campus rapes are committed by repeat offenders.¹⁹

Stalking

- College women experience the highest rates of stalking at 13%, and of those stalked, 42% were stalked by a boyfriend or ex-boyfriend.²⁰

In addition to our commitment to support victims/survivors and hold perpetrators accountable when acts of domestic violence, dating violence, or stalking occur, [YOUR INSTITUTION] is dedicated to creating a violence-free culture through prevention education and awareness programming.

¹²Knowledge Networks for Liz Claiborne, Inc. (2011). 2011 College Dating Violence and Abuse

¹³ Catalano, S. (2007). Intimate Partner Violence in the United States. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

¹⁴ Edwards, K, Sylaska, K Intimate partner violence among LGBTQ+ college students. The Carsey School of Public Policy at the Scholar's Repository. Paper 210.

¹⁵ Krebs CP, Linqvist CH, Warner TD, Fisher BS, Martin SL (2009). College women's experiences with physically forced, alcohol- or other drug-enabled, and drug-facilitated sexual assault before and since entering college.

¹⁶ Fisher, B, Cullen, F, Turner, M. The sexual victimization of college women. Research Report, US Department of Justice, Office of Justice Programs, National Institute of Justice; 2000:1-51.

¹⁷ Fisher, B, Cullen, F, Turner, M. The sexual victimization of college women. Research Report, US Department of Justice, Office of Justice Programs, National Institute of Justice; 2000:1-51.

¹⁸ Lisak D, Miller, P (2002). Repeat Rape and Multiple Offending Among Undetected Rapists. Violence and Victims.

¹⁹ Lisak D, Miller, P (2002). Repeat Rape and Multiple Offending Among Undetected Rapists. Violence and Victims.

²⁰ Fisher, B, Cullen, F, Turner, M. The sexual victimization of college women. Research Report, US Department of Justice, Office of Justice Programs, National Institute of Justice; 2000:1-51.

*As a reminder, this policy is strictly for students. If the alleged perpetrator is an employee or visitor of the institution, please see [YOUR RELEVANT UNIVERSITY POLICIES HERE].

II. Definitions

[YOUR INSTITUTION] is committed to ensuring that every student understands the terms used in this policy so that the expectations regarding student conduct while enrolled at [YOUR INSTITUTION] are clear. If any of the definitions provided below are unclear to a student, it is their responsibility to seek guidance from [YOUR INSTITUTION]'s Office of [Appropriate Division Office]. The following definitions apply to [YOUR INSTITUTION]'s response policy on dating violence, domestic violence, stalking, and sexual violence. (For further guidance on required definitions, see guidance document page 22):

1. **Abusive behavior:** Intimate partner violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.²¹ Additionally, it may include a single act or an ongoing pattern of behavior.
2. **Alleged Perpetrator:** An individual who the victim/survivor identifies as having perpetrated domestic violence, dating violence, stalking, or sexual violence.
3. **Coercion:** Unlike seduction, coercion involves an unreasonable amount of pressure to engage in sexual activity. Engaging in sexual activity must be freely given. Persons should engage in sexual activity because they want to do so, and not because someone has pressured them into it. Threatening, manipulating, cajoling, and pressuring someone until they finally say "Okay, just get it over with" does not mean an individual has obtained consent.²² Assessing a circumstance suggesting coercion should incorporate a review of the elements of isolation, duration, frequency, and intensity.
4. **Cultural Abuse:** Abusive language or actions based on the victim's/survivor's culture, background, beliefs or values.
5. **Dating violence:** A pattern of abusive behavior by an individual against a person whom they are or have been involved in a sexual or dating relationship with, and that is used by one partner to gain or maintain power and control over another intimate partner.*
6. **Domestic violence:** A pattern of abusive behavior by an individual against a person whom they are or have been married to, are or have lived together as if married, or share a child in common that is used by one partner to gain or maintain power and control over the other intimate partner.*

*When a victim/survivor reports that they have been the victim/survivor of domestic violence, dating violence, stalking, or sexual violence as defined in [YOUR INSTITUTION]'s policies, [YOUR

²¹ United States Department of Justice, Office on Violence Against Women (2014). Domestic Violence Definitions

²² Guidance for Creating a Campus Sexual Misconduct Prevention and Intervention Policy, North Carolina Sexual Violence Prevention Team (2013).

INSTITUTION] will err on the side of assuming that a personal relationship qualifies as dating violence or domestic violence if the victim/survivor characterizes their relationship with the alleged perpetrator as an intimate partner relationship.

7. **Economic abuse:** Withholding economic resources to control, intimidate, threaten, or cause the victim/survivor to remain in a relationship because of lack of access to finances. Examples include, but are not limited to, forbidding the victim/survivor to work or attend school, sabotaging employment opportunities, jeopardizing employment by stalking or harassing, or withholding money.²³
8. **Emotional/Psychological abuse:** Any behavior, verbal or non-verbal, that the alleged perpetrator does to control the victim/survivor and/or damage the victim's/survivor's emotional well-being. Examples include, but are not limited to, name-calling and mocking, yelling, making humiliating remarks, placing little value on what the victim/survivor says, and monitoring phone calls, texts, car, or computer use.²⁴
9. **Forced substance use or abuse:** An individual who forces the victim/survivor, through threats and/or violence, to use and in some cases, abuse alcohol and other drugs.
10. **Intimate partner violence (IPV):** An umbrella term, which encompasses both domestic violence and dating violence. This term will be used throughout [YOUR INSTITUTION]'s policy to include acts that constitute either domestic violence or dating violence.
11. **Intimidation:** Intentional behavior that would cause a reasonable person in a similar circumstance to feel fear of injury or harm. It is not necessary to prove that the behavior was so violent as to cause terror or that the victim/survivor was actually frightened. Examples include, but are not limited to, breaking items, throwing things, and hurting animals.
12. **Isolation:** A behavior by a perpetrator that forces the victim/survivor to be or remain alone or apart from others. Examples include: keeping the victim/survivor away from friends and family, monitoring and/or limiting phone calls, texts, emails, social media or other forms of communication, monitoring interactions and activities throughout the day, not allowing participation in activities or hobbies, and using jealousy as an excuse for all of these behaviors.
13. **Minimizing, blame, and denial of abuse:** A common behavior exerted by perpetrators to deflect responsibility.
14. **Physical Violence:** The intentional use of physical force with the potential for causing death, disability, injury, or harm. It does not have to result in harm.
15. **Removing access to medication or assistive devices:** This occurs when an individual removes a victims/survivors access to necessary medication or assistive devices such as a wheel chair, glasses, insulin, etc. This is often done to exert control over the victim/survivor, in which only the perpetrator has the power to help and they are therefore dependent on them.

²³ Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut.

²⁴ Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut.

16. **Reporting Party:** An individual who files a report with [YOUR INSTITUTION] informing [YOUR INSTITUTION] that an individual has been the subject of prohibited conduct covered under the Policy.
17. **Responding party:** An individual about whom a report of IPV, stalking, or sexual violence is filed under [YOUR INSTITUTION]'s grievance procedures.
18. **Sexual violence:** A broad term encompassing any non-consensual physical contact of a sexual nature. Committed either by force, intimidation, coercion, or through the use of the victim's/survivor's mental or physical incapacity, including through voluntary or involuntary consumption of drugs or alcohol. Sexual violence varies in its severity and consists of a range of behavior or attempted behavior from non-consensual touching of the breasts, thighs or buttocks, to the non-consensual penetration of any sexual bodily orifice by any body part of object.²⁵ See [YOUR INSTITUTION]'s definition of sexual violence in the [YOUR INSTITUTION'S SEXUAL MISCONDUCT POLICY NAME].
19. **Stalking:** Unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities.²⁶ Course of conduct is defined as a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct.²⁷
20. **Technological abuse/Digital abuse:** The use of technology to control, harass, intimidate, threaten, or stalk another person. Examples include, but are not limited to, hacking or logging into a victim's/survivor's email or other accounts without permission, demanding passwords, installing tracking devices on or checking a victim's/survivor's cell phone, manipulation through social media, cyber bullying, violation of information privacy, sharing or threatening to share private or embarrassing pictures or videos of them, and sending insulting or threatening emails or messages.²⁸
21. **Threats:** The use of words, gestures, or weapons to communicate the intent to cause death, disability, injury, or physical or mental harm. Examples of threats include, but are not limited to, suicidal threats, threats of physical or sexual violence, threats to report the victim/survivor for misconduct or destroy their reputation and social connections, threats to family and friends, coercion under threats to make the victim/survivor do things they normally would not and use those activities as further threats; outing or threat of outing LGBTQI-identified people; threat of

²⁵ Guidance for Creating a Campus Sexual Misconduct Prevention and Intervention Policy, North Carolina Sexual Violence Prevention Team (2013).

²⁶ University of North Carolina-Chapel Hill (2014). University of North Carolina- Chapel Hill Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking.

²⁷ National Center for Victims of Crime (2011). Model Campus Stalking Policy.

²⁸ Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut.

revealing immigration status, mental or physical disabilities, etc.; a final example includes International students. Perpetrators may threaten their partners by telling them they will be sent back to their country of origin if they report acts of violence against them, and international student victims/survivors may fear retaliation from their abusive partner, who may falsely accuse them of abuse and therefore potentially send them back to their country of origin.

22. **Use of privilege:** When a perpetrator uses their privilege such as white, male, employed, out status, etc. to exert power and control over the victim/survivor.
23. **Victim/Survivor:** An individual who may have been the subject of any *prohibited conduct* by an individual or organization covered under the Policy regardless of whether the victim/survivor makes a report or seeks action under the Policy.²⁹

III. Confidentiality and Reporting Procedures

[YOUR INSTITUTION] believes that supporting victims/survivors of IPV, stalking, or sexual violence is the single most important step for a victim's/survivor's healing process. [YOUR INSTITUTION] understands that when a student has been a victim/survivor of IPV, stalking, or sexual violence, that [confidentiality](#) and privacy is often a top concern of the victim/survivor. [YOUR INSTITUTION] is committed to providing victims/survivors with complete, detailed information about their options for obtaining support services and controlling whether the information they share is disclosed, to whom, and for what purposes. [YOUR INSTITUTION] encourages victims/survivors to talk to someone about their victimization so that they can get the support they need and [YOUR INSTITUTION] can respond appropriately. However, [YOUR INSTITUTION] believes that victims/survivors are best served by giving them as much control over the process as is legally allowed, including whether to disclose or report the victimization at all. Therefore the following sections clearly outline a victim's/survivor's options for disclosing or reporting and explain in detail to whom a victim/survivor can share this information [confidentially](#), and the limits of [confidentiality](#) so that victims/survivors can make informed decisions on whether and with whom to share this information.

Reporting On-Campus

[YOUR INSTITUTION] wants all victims/survivors to know that [YOUR INSTITUTION] takes reports of IPV, stalking, and sexual violence very seriously and will investigate every reported case to the fullest extent. Every student is supported by [YOUR INSTITUTION]'s policy against IPV, stalking, and sexual violence, regardless of race, color, national origin, sex, disability, ethnicity, religion, gender identity, gender expression, sexual orientation, age, education, or socio-economic status. Specifically, [YOUR INSTITUTION] recognizes that IPV, stalking, and sexual violence occur at similar rates in same-sex intimate relationships as in different-sex intimate relationships. [YOUR INSTITUTION] will investigate incidents of IPV, stalking, and sexual violence in same-sex relationships regardless of whether North

²⁹ University of North Carolina-Chapel Hill (2014). University of North Carolina- Chapel Hill Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking.

Carolina or Federal Laws recognize violence within same-sex relationships as “domestic violence” or “dating violence.”

A report of IPV, stalking, or sexual violence can be made by any person with knowledge of the incident(s). This includes the victim/survivor, a witness, or any other third-party who may have information about an incident(s) of IPV, stalking, or sexual violence.

Persons who have been the victim/survivor of IPV, stalking, or sexual violence not only have the option to report the incident(s) to [YOUR INSTITUTION] staff and advocates but can also choose to report the incident(s) to [CAMPUS POLICE/PUBLIC SAFETY], and/or seek assistance from off-campus resources or report to off-campus police. Victims/survivors have the choice to report to both on and off-campus resources, to just one, or to neither. There is a comprehensive list of off-campus reporting options and resources in the “Resources” section of this policy on page 76.

INSERT YOUR COLLEGE/UNIVERSITY PROCEDURE FOR REPORTING IPV, STALKING, AND SEXUAL VIOLENCE HERE. SEE NCCADV’S GUIDANCE DOCUMENT (PAGE 28) FOR DETAILS ON WHAT SHOULD BE INCLUDED IN CAMPUS PROCEDURES FOR FORMAL AND INFORMAL REPORTS, CONFIDENTIAL, QUASI-CONFIDENTIAL and NON-CONFIDENTIAL REPORTS, THIRD-PARTY REPORTS, AND ANONYMOUS REPORTING. BE SURE TO CLEARLY EXPLAIN YOUR INSTITUTION’S STEP-BY-STEP PROCESS AND POSSIBLE OUTCOMES FOR INFORMAL AND OTHER REPORTS. AN OUTLINE FOR DISCIPLINARY PROCEDURES FOLLOWING A FORMAL REPORT IS INCLUDED IN A SUBSEQUENT SECTION ON PAGE 68].

[YOUR INSTITUTION] encourages victims/survivors of IPV, stalking, and sexual violence to consider preserving any evidence of the incident(s). Even if the victim/survivor does not want to report the incident(s) to either campus or local law enforcement authorities, the victim/survivor should consider keeping any evidence in case they decide to pursue a report at a later time. Evidence of incident(s) could include, but is not limited to: pictures of injuries or damaged property; medical reports; phone records; copies of electronic communications such as text messages, emails, social media posts and messages; voicemails, etc.

[YOUR INSTITUTION] wants to hold perpetrators of IPV, stalking, and sexual violence accountable and make [YOUR INSTITUTION] safer. Therefore [YOUR INSTITUTION] encourages reporting of all incidents of IPV, stalking, and sexual violence to a [YOUR INSTITUTION] authority. [YOUR INSTITUTION] recognizes that whether or not to make a report is a personal decision and one that might change over time. [YOUR INSTITUTION] offers services to victims/survivors even if they choose not to formally report the incident(s). (See Assistance and Support section below). Advocates and/or [INSERT APPROPRIATE OFFICE HERE] are available to inform victims/survivors and third parties of the reporting procedures and offer appropriate referrals. Victims/survivors of IPV, stalking, and sexual violence choosing to pursue the reporting process have the right to assistance or consultation of an advocate and have the same rights that the responding party has during the process.

Further, while [YOUR INSTITUTION] does not condone underage drinking or illegal use of controlled substances, [YOUR INSTITUTION] considers the reporting of IPV, stalking, and sexual violence to be of paramount importance and want victims/survivors to come forward without fear of sanctions against them for violations of alcohol and drug college/university policies or other policies. Therefore [YOUR INSTITUTION] will extend limited immunity from punitive sanctioning for underage drinking or illegal use of controlled substances to victims/survivors, witnesses, and those reporting incident(s) and/or assisting the victims/survivors of IPV, stalking, and sexual violence.

[YOUR INSTITUTION] will remain ever mindful of the victim's/survivor's well-being, will work with the victim/survivor to create a safety plan and will take ongoing steps to protect the victim/survivor and anyone else participating in the investigation and disciplinary process from retaliation or harm. Complicity in violations of [YOUR INSTITUTION]'s IPV, stalking, and sexual violence policy and retaliation against the victim/survivor, witness or other third-party involved in the investigation and disciplinary process whether by students or [YOUR INSTITUTION] employees, will not be tolerated. [YOUR INSTITUTION] defines "complicity" and "retaliation" as the following:

- **Complicity:** Any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person.³⁰
- **Retaliation:** Intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's informal or formal complaint or participation in a school or Office for Civil Rights (OCR) investigation or proceedings related to IPV, stalking, sexual violence or other civil rights concerns. Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws.³¹ The prohibition against retaliation means that if a student, parent, teacher, professor, coach, or other individual complains formally or informally to a school about a potential civil rights violation, such as failure to address IPV, stalking, or sexual violence, or participates in an OCR or school investigation or proceeding, the school is prohibited from retaliating against the individual because of their complaint or participation. These protections should also be extended to victims/survivors who do not make a report or complaint but do request assistance and support as a result of the IPV, stalking, or sexual violence that they have suffered.

[YOUR INSTITUTION] recognizes that IPV, stalking, and sexual violence are acts that are often cloaked in silence. Therefore, any act that constitutes retaliation, the attempt to silence someone who has been brave enough to come forward and report IPV, stalking, or sexual violence would be considered a

³⁰ University of North Carolina-Chapel Hill (2014). University of North Carolina- Chapel Hill Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking.

³¹ United States Government (2014). Not Alone Website.

violation of the student code of conduct and if found in violation will be met with strong responsive disciplinary action including the possibility of expulsion.

[YOUR INSTITUTION]'s Title IX Coordinator's core responsibilities include overseeing the school's response to sexual violence, including IPV and stalking reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.³² [INSERT CONTACT INFORMATION FOR TITLE IX COORDINATOR].

Because IPV, stalking, and sexual violence may constitute both a violation of [YOUR INSTITUTION]'s policy and criminal activity, and because [YOUR INSTITUTION]'s disciplinary system is not a substitute for criminal or civil action, [YOUR INSTITUTION] encourages students to report incident(s) of IPV, stalking, and sexual violence to an accredited law enforcement agency as soon as practicable, including (YOUR INSTITUTION'S CAMPUS LAW ENFORCEMENT, IF ACCURATE). However, although [YOUR INSTITUTION] encourages reporting of all incidents of IPV, stalking, and sexual violence to law enforcement authorities, [YOUR INSTITUTION] respects that whether or not to report to law enforcement is the victim's/survivor's decision. [YOUR INSTITUTION] will not use the victim's/survivor's decision whether or not to report to law enforcement in any way in investigating and evaluating the reported incident(s) or in determining appropriate disciplinary action against an alleged perpetrator.

Finally, [YOUR INSTITUTION] provides the below information about *options* available to students. [YOUR INSTITUTION] is **NOT advising** students about which action(s) to take, whether they will be successful, or whether any particular legal or institutional action is in the student's best interest. This information is intended solely to provide a victim/survivor with as much information as possible so that they can make the best decision for themselves.

Options for Disclosing and/or Reporting On-Campus

All employees at the college/university have the responsibility to maintain the privacy of a victim/survivor, but different employees have varying abilities to maintain a victim's/survivor's [confidentiality](#)³³:

1. Some are required to maintain near complete [confidentiality](#)³⁴; talking to them may be called a "privileged communication."
2. Other employees may talk to a victim/survivor in confidence, and generally only report to [YOUR INSTITUTION] that an incident(s) occurred without revealing any personally identifying information. Disclosures to these employees will not activate a [YOUR INSTITUTION]

³² Questions and Answers on Title IX and Sexual Violence (2014). US Department of Education.

³³ United States Government (2014). Not Alone Website.

³⁴ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

investigation³⁵ into an incident(s) against the victim's/survivor's wishes. We would identify these contacts as "private."

3. Thirdly, some employees are required to report all the details of an incident(s), including the identities of both the victim/survivor and alleged perpetrator, to the Title IX Coordinator. A report to these employees (called "responsible employees") constitutes a report to [YOUR INSTITUTION] – and generally obligates [YOUR INSTITUTION] to engage in a preliminary investigation in order to determine what happened and the level of risk to the victim/survivor and/or the larger community(s) and take appropriate steps to address the situation. In all cases the victim/survivor will never be required to participate further in the investigation against their wishes.

These three categories of college/university employees are described in more detail below, including [YOUR INSTITUTION]- specific resources.

A. Privileged and Confidential Disclosures

Professional and Pastoral Counselors:

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) shall not report any information about an incident(s) to the Title IX coordinator without a victim's/survivor's permission.

Following is the contact information for these individuals:

[INSERT LIST]

Non-Professional Counselors and Advocates ("Private Reporters")

Individuals who work or volunteer in the on-campus [LIST THE OFFICES THAT PERTAIN TO YOUR SCHOOL: DOMESTIC VIOLENCE AND/OR SEXUAL VIOLENCE CENTER, VICTIM/SURVIVORS ADVOCACY OFFICE, WOMEN'S CENTER, HEALTH CENTER, ETC.], including front desk staff and students, can generally talk to a victim/survivor without revealing any personally identifying information about an incident(s) to [YOUR INSTITUTION]. A victim/survivor can disclose to and seek assistance and support from these individuals without³⁶ activating a college investigation that could reveal the victim's/survivor's identity or that the victim/survivor has disclosed the incident(s).³⁷

³⁵ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

³⁶ There are always exceptions to confidentiality, particularly if there is risk of serious harm to self or others.

³⁷ This is true unless there are issues of threats, violence, harm to self or others, weapons, or patterns of behavior. In these cases, the institution is still responsible for taking reasonable action to stop and prevent reoccurrence.

While maintaining a victim's/survivor's [confidentiality](#), these individuals or their office will report the nature, date, time, and general location of an incident(s) to the Title IX Coordinator. This limited report – which includes NO information that would directly or indirectly identify the victim/survivor – helps keep the Title IX Coordinator informed of the general extent and nature of IPV, stalking, and sexual violence on and off-campus, so the Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim/survivor to ensure that no personally identifying details are shared with the Title IX Coordinator.

Following is contact information for these college/university non-professional counselors and advocates:

[INSERT LIST]

A victim/survivor who discloses to a Campus Professional or Non-Professional Counselor or Advocate should understand that if the victim/survivor wants to maintain [confidentiality](#), [YOUR INSTITUTION] will be unable to conduct an investigation into the particular incident(s) or pursue disciplinary action against the alleged perpetrator. A victim/survivor who at first requests [confidentiality](#) may later decide to file a report with the school and/or with campus/local law enforcement, and thus have the incident(s) fully investigated. Regardless of whether the victim/survivor wishes to keep the report [confidential](#) or chooses not to participate in a full investigation, [YOUR INSTITUTION]'s counselors and advocates will provide the victim/survivor with assistance in receiving other necessary protection and support, such as victim/survivor advocacy, academic support or assistance, disability, health or mental health services, and changes to living, working, or course schedules.

B. Reporting to “Responsible Employees”

A “responsible employee” is a [YOUR INSTITUTION] employee who³⁸:

1. Has the authority to redress IPV, stalking, and sexual violence
2. Has the duty to report incident(s) of IPV, stalking and sexual violence or other student misconduct, or
3. A student could reasonably believe has this authority or duty

When a victim/survivor reports to a “responsible employee” about an incident(s) of IPV, stalking, or sexual violence the victim/survivor has the right to expect [YOUR INSTITUTION] to take immediate and appropriate steps to investigate the incident(s) and to resolve the matter promptly and equitably.

³⁸ N.C. General Statute §S. 47 Campus SaVE Act (2013).

A “responsible employee” must report to the Title IX Coordinator all relevant details about the alleged IPV, stalking, or sexual violence shared by the victim/survivor and [YOUR INSTITUTION] will need to determine what happened – including the names of the victim/survivor and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident(s).

To the extent possible, information reported to a “responsible employee” will be shared only with people responsible for handling [YOUR INSTITUTION]’s response to the report. A “responsible employee” will not share identifying information with law enforcement without the victim’s/survivor’s consent.

Institutions will vary in how employee titles/positions are utilized; therefore it is imperative for institutions to thoughtfully review the definition of ‘responsible employee’ in creating a list of which positions have this designation. At minimum, an institution’s responsible employees should include:

- 1) Title IX Coordinator(s)
- 2) Law Enforcement
- 3) University administrators
- 4) Supervisors
- 5) Employees designated as Campus Security Authorities under the Clery Act.

Before a victim/survivor reveals any information to an employee of [YOUR INSTITUTION], the employee is required by [YOUR INSTITUTION] to ensure that the victim/survivor understands the employee’s reporting obligations – and, if the victim/survivor wants to maintain [confidentiality](#), direct the victim/survivor to [confidential](#) resources.

If the victim/survivor wants to tell the “responsible employee” about the incident of IPV, stalking or sexual violence but also maintain [confidentiality](#), the employee will inform the victim/survivor that [YOUR INSTITUTION] will consider the request, but cannot guarantee that [YOUR INSTITUTION] will be able to honor it. In reporting the details of the incident(s) to the Title IX Coordinator, the “responsible employee” will also inform the Coordinator of the victim’s/survivor’s request for [confidentiality](#).

It is not the responsibility of “responsible employees” to pressure victims/survivors towards [confidential](#) or reporting resources, but instead to listen to what that individual chooses to share with them, provide them with resources, and pass along certain information to the Title IX coordinator. By the same token, “responsible employees” will not pressure a victim/survivor to make a full report if the victim/survivor does not wish to at the time.

C. Anonymous Reporting

[YOUR INSTITUTION] encourages the reporter to provide as much detailed information as possible, including their own name in order to assist [YOUR INSTITUTION] in conducting a full investigation to hold

the alleged perpetrator accountable. However, [YOUR INSTITUTION] recognizes that there are many reasons why someone would want to make an anonymous report, including, but not limited to: fear of retaliation; reluctance to have to re-live the incident(s) by participating in an investigation and disciplinary process; concern that [YOUR INSTITUTION] will take disciplinary action against the reporting party for other conduct violations; and fear that friends, family, or the public will learn about the incident(s). Therefore [YOUR INSTITUTION] provides an online [or other system] for anonymous reporting. [INSERT DESCRIPTION OF THE SYSTEM/PROCESS]. The system will notify the user (before they enter information) that entering personally identifying information may serve as notice to [YOUR INSTITUTION] for the purpose of activating an investigation. Anonymous reports will result in data collection for the purpose of reporting incidents of IPV, stalking, and sexual violence in compliance with [Clery Act reporting requirements](#).

D. Miscellaneous

Public awareness events such as Take Back the Night, the Clothesline Project, candlelight vigils, protests, survivor speak outs, or other forums in which students disclose incident(s) of IPV, stalking, or sexual violence are not considered notice to [YOUR INSTITUTION] for purposes of activating its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the event organizer will provide information about students' Title IX rights and sources of victim/survivor resources and support at these events.

Requesting Confidentiality from [YOUR INSTITUTION]

If a victim/survivor reports an incident(s) to a "responsible employee" but wishes to maintain [confidentiality](#) or requests that no investigation into a particular incident(s) be conducted or disciplinary action taken, the Responsible Employee must report all the information to your Title IX Coordinator or designee. [YOUR INSTITUTION] will review the information to determine if there is a pattern of behavior represented, or if there is evidence of predation, threat or violence and weigh the victim's/survivor's request against [YOUR INSTITUTION]'s obligation to provide a safe, non-discriminatory environment for all students, including the victim/survivor.

If [YOUR INSTITUTION] honors the request for [confidentiality](#), [YOUR INSTITUTION]'s ability to meaningfully investigate the incident(s) and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when [YOUR INSTITUTION] may not be able to honor a victim's/survivor's request in order to provide a safe, non-discriminatory environment for all students. [YOUR INSTITUTION] has designated the following individual(s) to evaluate requests for [confidentiality](#) once a "responsible employee" is on notice of alleged IPV, stalking, or sexual violence:

[INSERT NAME/POSITION]

When weighing a victim's/survivor's request for [confidentiality](#) or that no investigation or discipline be pursued, [INSERT name/position] will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of IPV, stalking, sexual violence or other violence, such as whether:
 - there have been other IPV, stalking, or sexual violence reports about the same alleged perpetrator;
 - the alleged perpetrator has a history of arrests or records from a prior institution indicating a history of violence;
 - the alleged perpetrator threatened further IPV, stalking, sexual violence or other violence against the victim/survivor or others.
- whether the IPV, stalking, or sexual violence was perpetrated with a weapon;
- whether the victim/survivor is a minor;
- whether [YOUR INSTITUTION] possesses other means to obtain relevant evidence of the IPV, stalking, or sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's/survivor's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead [YOUR INSTITUTION] to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, [YOUR INSTITUTION] will likely respect the victim's/survivor's request for [confidentiality](#).

If [YOUR INSTITUTION] determines that it cannot maintain a victim's/survivor's [confidentiality](#), [YOUR INSTITUTION] will inform the victim/survivor prior to starting an investigation and will only share information with people responsible for handling [YOUR INSTITUTION] 's response.

[YOUR INSTITUTION] will also provide victims/survivors with appropriate remedial action. For a list of remedial support options, see page 33.

[YOUR INSTITUTION] will not require a victim/survivor to participate in any investigation or disciplinary proceeding. Because [YOUR INSTITUTION] is under a continuing obligation to address the issue of IPV, stalking, and sexual violence campus-wide, reports of IPV, stalking, and sexual violence (including non-identifying reports) will also prompt [YOUR INSTITUTION] to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported IPV, stalking, or sexual violence occurred; increased education and prevention efforts, including to targeted population groups; conduct climate assessments/victimization surveys; and/or revisit its policies and practices. Regardless of whether [YOUR INSTITUTION] determines that it can respect a victim's/survivor's request for [confidentiality](#), [YOUR INSTITUTION] will also take immediate action as necessary to protect and assist the victim/survivor.

Despite all of the above information, there are certain exceptions to [confidentiality](#). These are outlined in the section below.

Important Exceptions to Confidentiality

When asking someone for assistance, a victim/survivor has every right to begin the conversation by asking the person they are considering disclosing to whether that person will keep their information confidential and under what circumstances the [YOUR INSTITUTION] staff person will have to report the incident(s) to [YOUR INSTITUTION] or agencies outside [YOUR INSTITUTION]. Although [YOUR INSTITUTION] wants to honor a victim's/survivor's desire for confidentiality, there are several legal circumstances which require [YOUR INSTITUTION] staff to disclose information that a victim/survivor shared. Those circumstances include:

1. State mandatory reporting laws
2. Court orders mandating disclosure
3. Serious and imminent threats to [YOUR INSTITUTION]'s victim/survivor or to the college/university community
4. Limited circumstances when student is a minor (under the age of 18)
5. Anonymous statistical data about incident(s) of IPV, stalking, and sexual violence which occurred on or near [YOUR INSTITUTION]'s campus
6. Reports made to on-campus or off-campus law enforcement

Each of these circumstances is described below in more detail:

State Mandatory Reporting Laws

Although these Campus Professional and Non-Professional Counselors and Advocates will maintain a victim's/survivor's [confidentiality](#) relating to [YOUR INSTITUTION], they may have reporting or other obligations under state law. The following are situations under North Carolina law where Campus Professional and Non-Professional Counselors and Advocates are required to report information despite a victim's/survivor's request not to do so:

1. Duty to report abuse, neglect, dependency, or death due to maltreatment of a juvenile (N.C. General Statute § 7B-301):
 - a. A juvenile is defined as: A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States.³⁹
 - b. Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found.... The report

³⁹ N.C. General Statute § 7B-101 (2014)

shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention.⁴⁰

2. Duty to report that a disabled adult is in need of protective services (N.C. General Statute §108A-101-2):⁴¹
 - a. "Disabled adult" is defined as: Any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.
 - b. Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director of the department of social services. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information. A "disabled adult" shall be "in need of protective services" if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for his essential services.

Court Orders Mandating Disclosure

A judge has the power to issue a court order requiring Counselors and Advocates to disclose otherwise privileged or confidential information under certain circumstances.

- a. Any resident or presiding judge in the district in which the action is pending shall compel disclosure, either at the trial or prior thereto, if the court finds, by a preponderance of the evidence, a good faith, specific and reasonable basis for believing that (i) the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, (ii) the evidence is not sought merely for character impeachment purposes,

⁴⁰ N.C. General Statute §7B-301.(2014)

⁴¹ N.C. General Statute §108A-101-2.(2014)

and (iii) the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party's counsel.⁴²

- b. No person certified by the State Department of Public Instruction as a school counselor and duly appointed or designated as such by the governing body of a public school system within this State or by the head of any private school within this State shall be competent to testify in any action, suit, or proceeding concerning any information acquired in rendering counseling services to any student enrolled in such public school system or private school, and which information was necessary to enable him to render counseling services; provided, however, that this section shall not apply where the student in open court waives the privilege conferred. Any resident or presiding judge in the district in which the action is pending may compel disclosure, either at the trial or prior thereto, if in his opinion disclosure is necessary to a proper administration of justice.⁴³
- c. No person, duly authorized as a licensed psychologist or licensed psychological associate, nor any of his or her employees or associates, shall be required to disclose any information which he or she may have acquired in the practice of psychology and which information was necessary to enable him or her to practice psychology. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is necessary to a proper administration of justice.⁴⁴
- d. No person engaged in delivery of private social work services, duly licensed or certified pursuant to Chapter 90B of the General Statutes shall be required to disclose any information that he or she may have acquired in rendering professional social services, and which information was necessary to enable him or her to render professional social services: provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by G.S. 8-53.6 or any other statute or regulation.⁴⁵
- e. No person, duly licensed as a licensed marriage and family therapist, nor any of the person's employees or associates, shall be required to disclose any information which the person may have acquired in rendering professional marriage and family therapy services, and which information was necessary to enable the person to render professional marriage and family therapy services. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6,

⁴² N.C. General Statute § 8-53.12.(2014).

⁴³ N.C. General Statute § 8-53.4.(2014).

⁴⁴ N.C. General Statute § 8-53.3. (2014).

⁴⁵ N.C. General Statute § 8-53.7. (2014).

compel disclosure, either at the trial or prior thereto, if in the court's opinion disclosure is necessary to a proper administration of justice.⁴⁶

Serious and Immediate Threats to the [YOUR INSTITUTION] Community

If [YOUR INSTITUTION] determines that the alleged perpetrator(s) pose a serious and immediate threat to the victim/survivor or to the [YOUR INSTITUTION] community [LIST THOSE IN THIS GROUP, IF ANY, WHO YOUR SCHOOL HAS DESIGNATED AS A CAMPUS SECURITY AUTHORITY UNDER THE CLERY ACT] may be called upon to issue a timely warning (SEE APPENDIX B FOR A TEMPLATE) to the community as required by law. Any such warning will NOT include any information that identifies the victim/survivor.

Minors

The Family Educational Rights and Privacy Act (FERPA) governs the rights of students and their parents in accessing a student's education records. According to FERPA, "once a student reaches 18 years of age or attends a postsecondary institution, he or she becomes an "eligible student," and all rights formerly given to parents under FERPA transfer to the student." Therefore, information regarding a report by a minor will not be shared with the victim's/survivor's parents or guardians unless sharing is permissible under FERPA; 2) the victim/survivor has signed a waiver that is compliant with FERPA; or 3) there is a health safety emergency to the victim/survivor.⁴⁷

Statistical Reporting

[YOUR INSTITUTION] is also responsible for collecting and reporting anonymous statistical information regarding reported criminal incident(s) that occur on or near campus property. This anonymous statistical information will be included in [YOUR INSTITUTION]'s Annual Security Report. If the alleged perpetrator committed the act of IPV, stalking, or sexual violence in an area off campus that is not part of the Clery jurisdiction, the incident will not be included in statistical reports.

Reports Made to On or Off-Campus Law Enforcement Agencies

Reports of IPV, stalking, or sexual violence made to campus law enforcement agencies are not education records. Rather, the report becomes a law enforcement record subject to public records laws (if the campus law enforcement are sworn state officers). If the campus law enforcement are not sworn officers, but rather public safety, or contracted security, then the records remain protected under FERPA and the campus or other law enforcement agency does not have to disclose the records to the victim/survivor and can disclose them to others without the victim's/survivor's permission.

IV. Pursuing Criminal Action

Students may always contact the local or campus law enforcement authorities directly. In addition, [INSERT UNIVERSITY-SPECIFIC RESOURCES] are available to assist students in making reports to the local

⁴⁶ N.C. General Statute § 8-53.5.(2014).

⁴⁷ United States Department of Education (2011). FERPA General Guidance for Students.

or campus law enforcement and in pursuing legal options. Information shared with local or campus law enforcement [IS OR IS NOT] [confidential](#).

Students wishing to report IPV, stalking, or sexual violence outside the institution can do so in several ways including:

1. call 911 if it is an emergency;
2. call the non-emergency number for the local law enforcement authority (listed in the resource section of this document on page 76);
3. make an in-person report at any local police station;
4. go directly to the county magistrate's office to file charges independent of local law enforcement. (NOTE: if the victim/survivor does not report to law enforcement before going to the magistrate's office, the crime might be charged by a magistrate, but without a thorough investigation, which might affect the prosecutor's ability to prosecute. In addition, while victims/survivors can request misdemeanor charges directly from a magistrate, victims/survivors cannot request felony charges without the assistance of law enforcement.)

Each law enforcement agency has their own policies and protocols for investigating reports of crimes and issuing criminal charges. However, generally speaking, the law enforcement agency with jurisdiction over the area in which the crime occurred (i.e. campus law enforcement if it happened on campus), will take the initial report of a crime and then conduct further investigation, including at times potentially multiple interviews of the victim/survivor. In order for law enforcement to request that a criminal charge be issued against someone, the law enforcement officer must have "probable cause" to believe a crime was committed. "Probable cause" is often defined as "articulable facts that would lead a reasonable person to believe it is more probable than not that 1) this particular crime was committed and 2) it was committed by this particular person."

If the law enforcement agency determines that there is probable cause that a crime of IPV, stalking, or sexual violence has occurred, then the law enforcement agency will typically go to the magistrate's office to apply for criminal charges or work directly with the [INSERT name of local district attorney's office] to indict the alleged perpetrator.

Once a crime is charged, the case is prosecuted by the State of North Carolina through the [INSERT NAME OF LOCAL DISTRICT ATTORNEY'S OFFICE]. The victim/survivor is considered a witness in the case and will need to work with the district attorney's office to learn what the next steps are in the prosecution of the case. Once a criminal charge is filed, the victim/survivor does not have the independent power to dismiss or proceed with the charge. The prosecutor will consider the wishes of the victim/survivor, but ultimately the prosecutor has the sole authority to decide whether or not to prosecute the case.

V. Pursuing Civil Action

A student who has been the victim/survivor of IPV, stalking, or sexual violence also has the option to pursue civil action against the alleged perpetrator in addition to the other reporting options, or in lieu of them.

There are several options for civil justice:

- 1) Filing a complaint for a “Domestic Violence Protective Order” (otherwise known as a “50B Order”).
- 2) Filing a complaint for a “No-Contact Order for Stalking or Non-Consensual Sexual Conduct” (otherwise known as a “50C Order”).
- 3) Filing a complaint in small claims court for money owed as a result of IPV, stalking, or sexual violence (ex. Destroyed property).
- 4) Filing a civil “tort” lawsuit seeking monetary damages compensating the victim/survivor for things such as medical and therapy expenses, psychological damage, damage to family relationships, and lost wages.

While all of these options are available to victims/survivors, filing a complaint for a 50B or 50C restraining order are the most common civil resources utilized by victims/survivors. Both a 50B and a 50C are forms of a restraining order, which have the power to order the perpetrator to have no contact with the victim/survivor. A 50B order has additional remedies such as the ability to order a perpetrator to not possess firearms, to grant possession of a residence or car to the victim/survivor, to grant temporary custody of minor children to the victim/survivor, and many other remedies. A victim/survivor may file a complaint for either restraining order free of charge in the county clerk’s office.

In order to file a complaint for a Domestic Violence Protective Order/50B the victim/survivor must:

- 1) have a “personal relationship” with the perpetrator, and
 - 2) the perpetrator must have “committed an act of domestic violence” against the victim.⁴⁸
- “Personal Relationship” is defined by North Carolina Statute 50B as meaning a relationship wherein the parties involved meet at least ONE of the following relationships:
 - (1) Are current or former spouses;
 - (2) Are persons of opposite sex who live together or have lived together;
 - (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
 - (4) Have a child in common;
 - (5) Are current or former household members;

⁴⁸ N.C. General Statute § 50B-1, 2014.

(6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

- “Act of domestic violence” is defined as:
 - (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
 - (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
 - (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7. (sex offense statutes)

In order to file a complaint for a No-Contact Order for Stalking or Non-Consensual Sexual Conduct/50C, the victim must NOT have a personal relationship with the perpetrator (as defined above in 50B) and must have been the victim of “unlawful conduct.”⁴⁹

- “Unlawful conduct” is defined by NC General Statutes as:
 - Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct; or
 - Stalking
- “Stalking” is further defined as:
 - On more than one occasion, following or otherwise harassing, as defined in G.S. 14-277.3A(b)(2), another person without legal purpose with the intent to do any of the following:
 - a. Place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
 - b. Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.

The legal process can often be complicated and feel overwhelming for victims/survivors to navigate alone. Advocates at [INSERT NAME OF THE LOCAL DOMESTIC VIOLENCE/SEXUAL VIOLENCE PROGRAM IN THE COUNTY] may be able to provide information and support for victims/survivors as they learn about and weigh the legal options available to them. Although these advocates are not attorneys, and

⁴⁹ N.C. General Statute § 50C-1, 2014

therefore cannot give a victim/survivor *advice* about what course of action to take, the advocates are knowledgeable about the options and local court procedures for filing for a restraining order.

Victims/survivors can obtain the appropriate paperwork to file a complaint for a 50B or 50C at [INSERT COUNTY] civil clerk's office at [INSERT ADDRESS FOR CIVIL CLERK'S OFFICE]. After a victim/survivor files the initial complaint for a 50B or 50C restraining order, they will be given a date to return within 10 days to request an order that is valid for up to one year. The alleged perpetrator will have the opportunity to be present at the hearing as well. Victims/survivors have the right to represent themselves at their restraining order hearings. However, many victims/survivors feel more comfortable having an attorney to assist them in the process. [Legal Aid of North Carolina](#) is a legal services agency that represents eligible victims/survivors of IPV, stalking, and sexual violence for free in their restraining order hearings as resources allow. Often times the local Domestic Violence/Sexual Violence Program has a referral process to Legal Aid or a victim/survivor may contact Legal Aid directly by calling the central intake line at 1-866-219-5262.

A victim/survivor might also be interested in filing a small claims action or civil tort lawsuit against the alleged perpetrator. The goal of these types of suits is to recover financial losses suffered as a result of the IPV, stalking, or sexual violence. These civil actions are typically more complicated and victims/survivors might want to consult with an attorney prior to proceeding with either a small claims action or tort lawsuit.

VI. Assistance and Support

[YOUR INSTITUTION] is committed to supporting victims/survivors of IPV, stalking, and sexual violence by providing the necessary safety and support services so that students can remain at [YOUR INSTITUTION], meet academic standards, obtain necessary health/mental health treatment, and maintain social relationships. Student victims/survivors are entitled to services and assistance and support regardless of whether they choose to formally report an incident(s) of IPV, stalking, or sexual violence. The [INSERT APPROPRIATE OFFICE] provides services, advocates, and information for victims/survivors in a safe, supportive, and [confidential](#) setting. These services are free for all students. [INSERT UNIVERSITY-SPECIFIC INFORMATION ABOUT ADDITIONAL RESOURCES AVAILABLE, IF ANY, TO STUDENTS TO HELP OFFSET THE FINANCIAL BURDEN OF VICTIMIZATION]. Any student who has reported being a victim/survivor of IPV, stalking, or sexual violence, will receive notification in writing of their right to assistance and support. The written notice will include a comprehensive list of potential forms of assistance and support.

[YOUR INSTITUTION] is committed to providing victims/survivors with the following forms of assistance and support upon request:⁵⁰

⁵⁰ Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut.

1. [YOUR INSTITUTION]-issued order of no contact/restraining order against alleged perpetrator if that individual is also a student at [YOUR INSTITUTION]
2. Victim/survivor advocate services
3. Referral to health services⁵¹
4. Access to a community resources [INSERT COMMUNITY-SPECIFIC INFORMATION HERE].
5. Change in academic schedule (of either victim/survivor or alleged perpetrator⁵²)
6. Change in/alternative housing options (of either victim/survivor or alleged perpetrator)
7. Change in course load, including reduced course load or alternative assignments
8. Excused class absences for treatment, hospitalization, and medical or mental health conditions
9. Immediate withdrawal from a class without penalty
10. Option for independent studies
11. Retrospective withdrawal from classes, if academic difficulties persist, without penalty
12. Postponement of assignments or exams
13. Rearrange dining schedules for victim/survivor and alleged perpetrator
14. Arrange study area schedule for victim/survivor and alleged perpetrator
15. Provide victim/survivor with security escorts
16. Leave of absence from [YOUR INSTITUTION]
17. Imposition of an interim suspension on the alleged perpetrator⁵³
18. Limit the alleged perpetrator's access to engage in activities
19. Provision of resources for medical and/or psychological support⁵⁴
20. Change in on-campus work schedule⁵⁵
21. Access to academic support/tutoring⁵⁶
22. Security escorts⁵⁷
23. Limiting an alleged perpetrator's access to [YOUR INSTITUTION] housing and/or [YOUR INSTITUTION] facilities⁵⁸
24. Limiting alleged perpetrator's access to engage in [YOUR INSTITUTION] activities⁵⁹
25. Any other forms of safety assistance or support requested by student-victim/survivor to aid the victim/survivor in feeling safe and supported

For assistance obtaining these forms of safety assistance and support, please contact [INSERT APPROPRIATE OFFICE/PERSON HERE]. In some circumstances, a victim/survivor may wish to seek an off-

⁵¹The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, 2011

⁵² The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, 2011

⁵³ The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, 2011

⁵⁴ The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, 2011

⁵⁵ United States Government (2014). Not Alone Website.

⁵⁶ United States Government (2014). Not Alone Website.

⁵⁷ The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, 2011

⁵⁸ Wake Forest University (2014). Wake Forest University Student Sexual Misconduct Policy.

⁵⁹ Wake Forest University (2014). Wake Forest University Student Sexual Misconduct Policy.

campus no-contact/restraining order against the alleged perpetrator by filing for one in a local county court (see pursuing civil action section above).

VII. Disciplinary Procedures

[YOUR INSTITUTION] is committed to providing a thorough, reliable, and impartial investigation and resolution for every report of IPV, stalking, and sexual violence. Both the investigation and hearing process will be conducted by officials who receive annual training on specific issues related to IPV, stalking, and sexual violence. While ensuring both parties are treated equitably, officers will be sensitive to protecting the safety of the reporting party and promoting accountability when the responding party is found responsible for conduct in violation of [YOUR INSTITUTION’S] policies.

Getting Started

Once a report is made to [YOUR INSTITUTION] by the person who experienced the IPV, stalking and/or sexual violence, for the purpose of investigation and disciplinary action, they are considered a “reporting party.” The alleged perpetrator is considered the “responding party.” Once a formal charge has been issued against the responding party, the charge is referred to the [HEARING OFFICIAL/BODY/BOARD-INSERT INSTITUTION-SPECIFIC PROCEDURES HERE]. [YOUR INSTITUTION] will notify the responding party in writing of the referral and the date for the hearing (if applicable). In all reports of IPV, stalking, and sexual violence [YOUR INSTITUTION] will provide the reporting party with a copy of all written notices sent to the responding party, and the responding party with a copy of all written notices sent to the reporting party.

[INSERT ADDITIONAL INSTITUTION-SPECIFIC PROCEDURES FOR INVESTIGATING IPV, STALKING, AND SEXUAL VIOLENCE HERE. SEE NCCADV’S GUIDANCE DOCUMENT ON PAGE 30 FOR DETAILS ON THE RECOMMENDED HEARING PROCESS, BEST PRACTICES FOR QUANTITY AND CONTENT OF TRAINING, MEMORANDUMS OF UNDERSTANDING WITH LOCAL LAW ENFORCEMENT AND ADDITIONAL GUIDANCE MATERIALS.]

Evidence Collection

[YOUR INSTITUTION] encourages responding parties to consider preserving any evidence of the incident(s). The investigation of a reported IPV, stalking, or sexual violence incident may entail the following:

- a. Interviewing the reporting party: The reporting party might be interviewed once or more than once depending on the investigator’s need to ask follow-up questions after collecting additional evidence;
- b. Interviewing the responding party;
- c. Interviewing other witnesses identified by either the reporting or responding party;
- d. Collecting and reviewing evidence which might corroborate either the reporting or responding party’s recollection of the incident. This might include, but is not limited to:

- a. Text messages
- b. Emails
- c. Social media posts
- d. Phone records
- e. Letters
- f. Voicemails
- g. Pictures
- h. Medical records
- i. Court records
- j. 911 calls
- k. Off-campus law enforcement records

Time Frame

[YOUR INSTITUTION] recognizes that reporting parties often prefer that the investigation and hearing process take place as quickly as possible. [YOUR INSTITUTION] must balance the need for swift resolution of IPV, stalking, and sexual violence cases with the importance of thoroughly investigating the allegations and allowing both the reporting party and the responding party sufficient time to prepare for any disciplinary proceedings. Taking these interests into consideration, [YOUR INSTITUTION] will complete all investigations of IPV, stalking, and sexual violence within 60 days of receiving the initial report. During this time, it is crucial that [YOUR INSTITUTION]: 1) Assess the risk of the responding party to the safety of the campus and reporting party, and 2) Consider and implement (if appropriate) a safety plan for the reporting party. If unusual circumstances exist that warrant the need for additional time to either investigate or resolve the report, [YOUR INSTITUTION] may extend the timeframe by an additional [INSERT INSTITUTION-SPECIFIC TIMEFRAME] days. If additional time is needed to resolve the alleged violation, the reporting party and the responding party will both receive notice, in writing from [YOUR INSTITUTION], prior to the original deadline expiring. The notice will clearly state the final deadline by which [YOUR INSTITUTION] will resolve the alleged violation. During the period of time when a report of IPV, stalking, or sexual violence is being investigated and resolved, the reporting party is entitled to assistance and support as outlined in the preceding section.

Federal Guidance

As the disciplinary process is internal to the institution, and not a matter of law, there is no obligation for the disciplinary hearing to employ the NC Rules for Evidence (NC General Statutes, Section 8C). Each student is guaranteed the right to present their relevant evidence or defense at the hearing. The hearing board determines if the information sought to be introduced is relevant. In accordance with the Department of Education's guidance, neither party shall be allowed to personally cross-examine the other party (i.e., parties may not ask one another questions directly; all questions must be directed to the hearing officer/board to be asked of the other party, if relevant). Questions regarding the reporting party's sexual history with anyone other than the responding party will not be permitted. The hearing

officer/board will receive annual training on IPV, stalking, and sexual violence, including on how to conduct an investigation, protect the safety of victims/survivors, promote accountability (and explains that the mere fact of a previous consensual sexual relationship does not itself imply consent or preclude a finding of sexual violence).⁶⁰

The sexual behavior of the reporting party is irrelevant to any issue in the disciplinary process unless such behavior:

- (1) Was between the reporting party and responding party; or
- (2) Is evidence of specific instances of sexual behavior offered for the purpose of showing that the act or acts charged were not committed by the responding party; or
- (3) Is evidence of a pattern of sexual behavior so distinctive and so closely resembling the responding party's version of the alleged encounter with the reporting party as to tend to prove that such reporting party consented to the act or acts charged or behaved in such a manner as to lead the responding party reasonably to believe that the reporting party consented; or
- (4) Is evidence of sexual behavior offered as the basis of expert psychological or psychiatric opinion that the reporting party fantasized or invented the act or acts charged.

Mediation of IPV, Stalking, and Sexual Violence Incidents

[YOUR INSTITUTION] is dedicated to providing reporting parties and responding parties with a fair process in resolving reports of IPV, stalking, and sexual violence. Due to the nature and seriousness of IPV, stalking, and sexual violence, mediation is not an option for resolution in these cases. Rather, these cases will be investigated and handled through [YOUR INSTITUTION]'s formal grievance and disciplinary procedures. (See NCCADV's Guidance Document p. 67 for more information).

Investigation of IPV, Stalking, and Sexual Violence Incidents

Reports, at the reporting party's request, of IPV, stalking, and/or sexual violence will be investigated thoroughly by a "case officer," the university official designated to address such matters (e.g., a conduct officer in an Office of Student Conduct) who will direct the investigation and confer with the Title IX Coordinator (or designee with extensive IPV, stalking, and sexual violence investigation experience), and possibly campus or local law enforcement, on interim action, accommodations for the reporting party, or other necessary remedial short-term actions.

The case officer will then take the following steps⁶¹:

1. In coordination with the campus Title IX Coordinator, initiate any interim safety measures;

⁶⁰ White House Task Force (2014). Not Alone: The First Report of the White House Task Force To Protect Students From Sexual violence.

⁶¹ ATIXA Model Policy and Grievance Procedures 2014.

2. Determine the identity and contact information of the reporting party (whether that be the victim/survivor, another witness, or a campus proxy or representative);
3. Identify the relevant policies under which the allegations fall;
4. Conduct an immediate initial review to determine whether there is reasonable cause to charge the responding party and initiate an investigation, and identify what specific policy sections are at issue;
 - a. If there is insufficient evidence to support reasonable cause, the grievance should be closed with no further action (all parties have the option to appeal);
 - b. If there is sufficient evidence, the case officer will initiate a disciplinary proceeding by notifying the responding party in writing that they are being formally charged with a violation. The notice of the charge will specify the offense(s) charged, the possible sanctions, and a brief summary of the factual allegations supporting the charge. Disciplinary action for a student found responsible for IPV, stalking, or sexual violence includes consequences up to and including expulsion; as a result, the notice to the responding party of the charge will explicitly state that expulsion is a possibility and that expulsion prevents graduation.
5. Complete the investigation promptly, and without unreasonable deviation from the intended timeline. The investigation will include interviews with parties and witnesses. In addition to the interview, parties may be asked to provide additional forms of evidence if it is available (e.g., photos, text message screen shots, etc.);
6. Determine the appropriate disciplinary proceeding [INSERT INSTITUTION-SPECIFIC OPTIONS]. Some responding parties may choose to waive their right to a disciplinary conference or hearing, to accept responsibility for violations of the Code of Student Conduct, and to accept a sanction determined by a staff member in the Office of Student Conduct. (See APPENDIX E for the procedures that will apply for resolution by Mutual Agreement).

Prior to the hearing both the reporting party and the responding party must be given an opportunity to review any written, photographic or any other documentary evidence that either party or [YOUR INSTITUTION] intends to use at the hearing and a list of witnesses that could potentially be called. Disciplinary hearings will be conducted within [INSERT YOUR INSTITUTION-SPECIFIC TIMEFRAME]. Hearings will be closed to the public. [YOUR INSTITUTION] records all disciplinary hearings and will prepare a transcript or other verbatim record of the hearing.

7. Set a hearing date; the hearing date will be scheduled within [INSERT INSTITUTION-SPECIFIC TIMEFRAME] days but not less than 10 calendar days after the responding party receives notice of the referral, unless the responding party and the reporting party both agree in writing to an earlier hearing date. Before scheduling the hearing date, [YOUR INSTITUTION] will consult with the reporting party to try to identify a hearing date and time that is

convenient for them. Either party may request in writing an extension of time to prepare for the hearing. Whenever a request for an extension is made, both parties should be notified and given an opportunity to consent, remain silent, or object. Extensions over the reporting party's objection should only be granted in extraordinary circumstances. [YOUR INSTITUTION] will not grant more than one extension to the responding party under any circumstances if the reporting party objects;

8. Notify both parties that they are entitled to be accompanied by an advisor of their choice for the hearing.⁶² [INSERT INSTITUTION-SPECIFIC POLICY ON WHETHER ATTORNEYS MAY BE USED AS ADVISORS AND RESTRICTIONS ON THEIR ROLES], and [IF YOUR INSTITUTION IS A UNC SYSTEM CAMPUS, INSERT NC SPECIFIC LAW REGARDING RESPONDING PARTY'S RIGHTS AS OUTLINED IN N.C.G.S. § 116-40.11.] (See APPENDIX D).
9. Prior to the hearing, provide both the reporting and the responding party a copy of [YOUR INSTITUTION'S] policy so that they are able to understand how the hearing works and also ensure that they understand and have an opportunity to ask questions about the process.
10. Provide the reporting party the option of having a partition during the hearing or participating remotely through video software such as a closed-circuit camera;

The hearing officer⁶³ (who cannot be the same person who gathered the evidence) will then take the following steps:

11. Conduct a reliable and impartial hearing. Both parties will have equal access to information presented and an opportunity to respond to the other's statements. Cross-examination, however, is not permitted;

⁶² Both the reporting party and the responding party are entitled to and granted the same opportunities to have others present at any meeting or proceeding related to the investigation, disciplinary hearing, and resolution of a report of IPV, stalking, or sexual violence. Each student is entitled to the equal right of having an attorney or non-attorney advocate present. Representation by attorneys or non-attorneys is not required.

⁶³ No later than 10 days prior to the scheduled disciplinary hearing, the reporting party and the responding party will be notified in writing of the individual(s) responsible for officiating the disciplinary procedure regarding the alleged violation of [YOUR INSTITUTION]'s IPV, stalking, or sexual violence policies. If the individual(s) officiating the disciplinary procedure has a conflict with, bias about, or an interest in the case, they must recuse themselves. If either the reporting party or the responding party believes there is a conflict of interest, the student shall be granted the opportunity to challenge the individual in question's participation in the disciplinary process. If there is a conflict of interest, and the individual in question refuses to recuse themselves, an impartial designated university official will make the recusal decision. The decision on the challenge must be made by the impartial designated university official within 5 calendar days. If necessary, a substituted investigator will be appointed. (UNC, 2013). [INSERT INSTITUTION-SPECIFIC PROCESS FOR EITHER PARTY TO RAISE CONFLICT OF INTEREST CONCERNS PRIOR TO THE HEARING].

12. Make a finding, based on a preponderance of the evidence (i.e., more likely than not), as to whether the respondent is responsible for violating the relevant policy⁶⁴;
13. If there is a finding of responsibility, along with the Title IX Coordinator (or designee), shall determine the appropriate sanction for the responding party. They will first hear a victim/survivor impact statement if the victim/survivor chooses to share one and take that into consideration when determining the sanction;
14. Present the findings and sanction to both parties, both who may accept the findings, accept the findings in part and reject them in part, or may reject all findings.

At any time prior to the conclusion of the disciplinary hearing, the responding party may waive the hearing and accept a sanction proposed by [an impartial designated university official]. The [impartial designated university official] will first determine that the waiver and acceptance of sanction are voluntary and that the charge and sanction have factual support. The responding party's waiver and acceptance must be in writing and signed by the responding party and the designated university official.⁶⁵ (See APPENDIX E)

Notification Process

The final administrative decision must be transmitted in writing to the reporting party and the responding party within 10 calendar days of the date the decision is made and must contain a brief summary of the evidence upon which the decision is based.⁶⁶ Both the reporting party and the responding party shall be simultaneously informed in writing of:

- a. The outcome of the disciplinary proceeding which includes the policies alleged to have been violated, the findings, the sanctions and the rationale for the action,
- b. The procedure and grounds for either party to appeal the results of the disciplinary proceeding,
- c. The date when the results of the disciplinary proceeding become final, and
- d. Any changes to the results of the disciplinary proceeding that occur prior to the time that such results become final.

Appeals

Each student's right to appeal will be clearly specified in the final decision letter. Appeals may only be based on allegations that the party was denied some guaranteed substantive or procedural due process

⁶⁴ The [HEARING OFFICER/BOARD'S] decision will be based solely on the evidence presented at the hearing. [INSERT INSTITUTION-SPECIFIC PROCEDURE RE: WHETHER THE DECISION IS FINAL OR IS A RECOMMENDATION FOR A FINAL DECISION BY A DESIGNATED UNIVERSITY OFFICIAL]. The final administrative decision must be reached within [INSERT INSTITUTION-SPECIFIC TIMERFRAME, NOT TO EXCEED 3 CALENDAR DAYS AFTER THE HEARING IS COMPLETED] days.

⁶⁵ University of North Carolina (2013). University of North Carolina Policy Manual: Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings.

⁶⁶ University of North Carolina (2013). University of North Carolina Policy Manual: Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings.

right or other right outlined in [RELEVANT POLICY] or due to new evidence. Parties may not appeal a disciplinary proceeding result simply because they do not agree with the outcome. All appeals must be filed within 5 days of receiving the final decision letter. [INSERT UNIVERSITY-SPECIFIC PROTOCOLS FOR APPEALS OF DISCIPLINARY HEARING RULINGS FOR REPORTING PARTY AND RESPONDING PARTY].

VIII. Sanctions

No later than 1 or 2 days prior to a determination of a sanction, the reporting party and the responding party will be notified in writing of the individuals who will be part of the sanction determination. If either the reporting party or the responding party believes that one of the persons responsible for determining the responding party's sanction has a conflict of interest, [INSERT UNIVERSITY-SPECIFIC PROCESS FOR EITHER PARTY TO RAISE CONFLICT OF INTEREST CONCERNS PRIOR TO THE SANCTIONS BEING ISSUED].

After a perpetrator has been found responsible for violating [YOUR INSTITUTION]'s IPV, stalking, and/or sexual violence policy, the victim/survivor is entitled to submit a victim/survivor impact statement to the person(s) responsible for determining the perpetrator's sanction. The person(s) responsible for determine the perpetrator's sanction shall consider the victim's/survivor's impact statement when determining the appropriate sanction.

A student who is found responsible for an act of IPV, stalking, and/or sexual violence is subject to sanctions by [YOUR INSTITUTION], up to and including expulsion and denial of degree. If a student is given a sanction less than expulsion upon being found responsible for an act of IPV, stalking, or sexual violence, and is later found to be responsible for a subsequent violation of [YOUR INSTITUTION]'s policies on IPV, stalking, or sexual violence, there will be further sanctions up to and including possible expulsion from [YOUR INSTITUTION]. The possible sanctions for being found responsible for a first offense of IPV, stalking, or sexual violence include⁶⁷:

1. **Community Restitution:** Requiring the perpetrator to perform a certain number of service hours either on-campus or in the community.
2. **Educational Intervention:** Requiring the perpetrator to participate in online and/or physical classes addressing issues such as IPV, stalking, and sexual violence. May include facilitating a program, creating educational posters regarding college/university policies and student conduct, and writing a paper.
3. **Expulsion:** A permanent separation from [YOUR INSTITUTION] that involves denial of all student privileges, including entrance to campus premises.

⁶⁷ Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut.

4. **Probation:** A status that indicates either serious misconduct not warranting expulsion, suspension, or removal of campus privileges, or repetition of misconduct after a warning has been imposed.
5. **Referral for Assessment or Counseling:** Requiring the perpetrator to meet with a staff member of the (Health/Counseling Center) to have an assessment of their mental health and lifestyle choices. The (Health/Counseling Center) may also recommend further evaluation and participation in counseling services.
6. **Removal of College Privileges:** Restrictions on the perpetrator's access to certain locations, functions, and/or activities; does not preclude the perpetrator from continuing their academic program. Be clear this could mean removal from an athletics team, fraternity, organization, etc.
7. **Removal or Non-Renewal of Scholarships:** (College/University)-administered scholarships are not awarded or are not renewed to students that have violated the student code of conduct.
8. **Residential Reassignment:** Removes the perpetrator from their current residence and reassigns him/her to a new room. Specific restrictions on access to one's previous residence may be imposed.
9. **Restitution/Fines:** The perpetrator may be fined for violations of the policies and procedures outlined by [YOUR INSTITUTION]. A student may be required to make a payment to [YOUR INSTITUTION] and/or another person or group for damages incurred as a result of the violation.
10. **Suspension:** A temporary separation from [YOUR INSTITUTION] that involves denial of all student privileges, including entrance to campus premises, and may include conditions for reinstatement, such as successful completion of a counseling or treatment program. A warning of suspension may be imposed if counseling or treatment is not successfully completed.
11. **Termination of Residency:** Loss of on-campus housing, without refund, and/or dining privileges, permanently or for a specified period of time.
12. **Transcript Entry:** May be implemented on its own or in combination with another sanction. The entry will indicate that a student was found responsible for IPV, stalking, and/or sexual violence. Expulsions and suspensions are also permanently recorded on a student's transcript.
13. **Withholding of Degree:** [YOUR INSTITUTION] maintains the right to withholding the awarding of a degree otherwise earned until the completion of any imposed sanctions.
14. [INSERT ANY OTHER UNIVERSITY-SPECIFIC SANCTIONS]

IX. Perceived Discrimination by [YOUR INSTITUTION]

[YOUR INSTITUTION] strives to protect the rights of all students and create and maintain a safe environment where students can thrive and pursue an education free from IPV, stalking, and sexual violence. However, if any student believes that [YOUR INSTITUTION] has discriminated against them based on race, color, national origin, sex, gender identity, religion, age or disability, students have the right to report [YOUR INSTITUTION] 's actions to the U.S. Department of Education Office of Civil Rights.

The mission of the Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. OCR requires

that the student filing the discrimination complaint provide their name, address, and email address; the name and address of the person discriminated against; and the name and address of the entity you believe discriminated. OCR will also ask that the student filing the complaint identify which of the kinds of discrimination forms the basis for the complaint and provide a description of the conduct that the student believes is discriminatory.

By law, complaints of discrimination must ordinarily be filed within 180 days of the last act of discrimination. Students may still file a complaint with OCR past the 180 days and request a waiver, which requires the student to explain why the complaint was not filed within the 180-day period. The student will also be asked whether they have tried to resolve the matter using a grievance procedure or by filing with another agency.⁶⁸

More information about OCR and how to file a complaint can be found on their website:

<http://www2.ed.gov/about/offices/list/ocr/index.html>

X. Resources

On-campus Resources:

[INSERT Names, brief descriptions, and contact information for campus-specific resources. A list of recommended resources to include can be found on page 36 of Guidance Document.]

Off-campus Local Resources:

[INSERT Name, brief description, and contact information for local agencies in the county where YOUR INSTITUTION is located. A list of recommended resources to include can be found on page 36 of Guidance Document.]

Statewide Resources:

El Pueblo, Inc.: El Pueblo is a statewide nonprofit whose mission is for Latinos to achieve positive social change through building consciousness, capacity, and community action. <http://www.elpueblo.org/>; (919) 835-1525

Equality NC: Equality NC is a statewide nonprofit dedicated to securing equal rights and justice for lesbian, gay, bisexual, and transgender (LGBT) North Carolinians. <http://equalitync.org/>; (919) 829-0343

Legal Aid of North Carolina: Legal Aid of North Carolina is a statewide, nonprofit law firm that provides free legal services in civil matters low-income persons and victims/survivors of IPV, stalking, and sexual violence. Their Domestic Violence Prevention Initiative Program provides free legal assistance to IPV, stalking, and sexual violence victims/survivors, particularly in representing victims/survivors in their

⁶⁸ United States Department of Education, Office for Civil Rights (2013). OCR Complaint Forms.

restraining order hearings. Their Battered Immigrant Project represents battered immigrants in related immigration matters. Intake line: 1-866-219-LANC (5262); <http://www.legalaidnc.org/>

NC Address Confidentiality Program: The North Carolina Department of Justice operates an “Address Confidentiality Program.” The Address Confidentiality Program helps victims/survivors keep abusers from discovering their new address. More information can be found on their website: <http://www.ncdoj.gov/getdoc/772ff33a-b9eb-4c98-aca6-c50c6d1ad07b/2-5-4-1-Address-Confidentiality-Program.aspx>; (919) 716-6785

NC Coalition Against Domestic Violence: The NC Coalition Against Domestic Violence (NCCADV) is a statewide nonprofit organization dedicated to working to end domestic violence through training, advocacy, policy work. The mission of NCCADV is to create social change through the elimination of the institutional, cultural, and individual oppressions that contribute to domestic violence. NCCADV maintains a list of domestic violence service providers across the state on their website. www.nccadv.org; 1-888-997-9124

NC Coalition Against Sexual Assault: The NC Coalition Against Sexual Assault (NCCASA) is a statewide nonprofit organization dedicated to working to end sexual violence and human trafficking through education, advocacy and legislation. NCCASA maintains a list of sexual violence service providers across the state on their website. www.nccasa.org; (919) 871-1015

NC Crime Victims Compensation: The North Carolina Department of Justice Victims Compensation Services reimburses citizens who suffer medical expenses and lost wages as a result of being an innocent victim of a crime committed in North Carolina. More information can be found on their website: <https://www.ncdps.gov/index2.cfm?a=000003,002144,000016>; (919) 733-7974

NC Victim Assistance Network: The mission of the NC VAN is to provide support and information for crime victims across our state and to advocate for their fair treatment. More information can be found on their website: <http://www.nc-van.org/>; 1-800-348-5068

National Resources

Know Your IX: Know Your IX is a national survivor-run, student-driven campaign to end campus sexual violence. Know Your IX educates students across the country about their civil right to education free from sexual violence and harassment while also pushing policy and legislative change on the national level for better federal enforcement of that same right. <http://knowyourix.org/>

National Alliance to End Sexual Violence: The National Alliance to End Sexual Violence (NAESV) is the voice in Washington for the 56 state and territorial sexual violence coalitions and 1300 rape crisis centers working to end sexual violence and support victims/survivors. <http://endsexualviolence.org/>

National Center for Victims of Crime: The National Center for Victims of Crime is a nonprofit organization that advocates for victims' rights, trains professionals who work with victims, and serves as a trusted source of information on victims' issues. <http://www.victimsofcrime.org/>

National Coalition Against Domestic Violence: The Mission of the National Coalition Against Domestic Violence (NCADV) is to organize for collective power by advancing transformative work, thinking and leadership of communities and individuals working to end the violence in our lives. www.ncadv.org

National Network to End Domestic Violence: A social change organization, is dedicated to creating a social, political and economic environment in which violence against women no longer exists <http://nnev.org/>

National Organization of Sisters of Color Ending Sexual Violence: Is an advocacy organization of Women of Color dedicated to working with our communities to create a just society in which all Women of Color are able to live healthy lives free of violence. *Our purpose* is to give voice and develop action strategies that incorporate and address the experiences and realities of Women of Color and Communities of Color. <http://sisterslead.org/>

National Sexual Violence Resource Center: The NSVRC's Mission is to provide leadership in preventing and responding to sexual violence through collaboration, sharing and creating resources, and promoting research. <http://www.nsvrc.org/>

Not Alone: A website of the United States Government White House Task Force to Protect Students from Sexual violence designed to provide students and schools with helpful resources related to IPV, stalking, and sexual violence on campuses. <https://www.notalone.gov/students/>

Office for Civil Rights: The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. <http://www2.ed.gov/about/offices/list/ocr/index.html>

Stalking Resource Center: The mission of the Stalking Resource Center is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking. <http://www.victimsofcrime.org/our-programs/stalking-resource-center>

UNC System Policy Manual (for UNC System Schools): The UNC System issued transmittal letter #86 on August 27, 2013, updating the policy for minimum substantive and procedural standards for student disciplinary proceedings for all UNC System Campuses. [file:///C:/Users/amccool/Downloads/Transmittal Letter %2386.pdf](file:///C:/Users/amccool/Downloads/Transmittal%20Letter%20%2386.pdf)

XI. Related College/University Policies

Examples of related policies may include:

1. Acts of Harm policy
2. Alcohol/drug policy
3. Amnesty policy
4. Community living standards or housing rules/contract
5. Discrimination and harassment
6. Honor code/conduct code
7. Minors on campus
8. Relationship policy between supervisors/professors and students/employees
9. Responsible Action/Good Samaritan policy
10. Sexual harassment
11. Threat assessment policy

XII. Related State Statutes

North Carolina has several criminal and civil statutes related to IPV, stalking, and sexual violence. Other than “violation of a domestic violence protective order” and “domestic criminal trespass,” North Carolina does not have crimes specific to IPV. Below is the text of statutes which are directly related to IPV, stalking, or sexual violence that might be used in cases of IPV, stalking, and sexual violence in North Carolina.

North Carolina Criminal Statutes Related to IPV, Stalking, and Sexual violence

North Carolina Civil Statutes Related to IPV, Stalking, and Sexual Violence

See Appendix C for all statutes. These can also be found at: <http://ncleg.net/>

XIII. References

College/University Policies

- University of North Carolina (2013). University of North Carolina Policy Manual: Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings. <http://www.northcarolina.edu/apps/policy/index.php?pg=vs&id=s457>
- University of North Carolina-Chapel Hill (2014). University of North Carolina- Chapel Hill Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking. <http://policies.unc.edu/files/2013/04/PPDHRM.pdf>
- Wake Forest University (2014). Wake Forest University Student Sexual Misconduct Policy. <http://static.wfu.edu/files/pdf/students/sexual-misconduct-policy.pdf>

Federal Documents, Statistics, and Statutes

- Catalano, S. (2007). Intimate Partner Violence in the United States. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.
- Fisher, B, Cullen, F, Turner, M. The sexual victimization of college women. Research Report, US Department of Justice, Office of Justice Programs, National Institute of Justice; 2000:1-51. <http://www.ncjrs.gov/pdffiles1/nij/182369.pdf>
- United States Department of Education (2011). FERPA General Guidance for Students. <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>.
- United States Department of Education, Office for Civil Rights (2013). OCR Complaint Forms. <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.
- United States Department of Justice, Office on Violence Against Women (2014). Domestic Violence Definitions. <http://www.justice.gov/ovw/domestic-violence>
- United States Government (2014). Not Alone Website. <https://www.notalone.gov/students/>
- White House Task Force (2014). Not Alone: The First Report of the White House Task Force To Protect Students From Sexual Assault. http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf

Guidance from National Organizations

- ATIXA Gender-Based and Sexual Misconduct Model Policy and Model Grievance Process (2014). <https://atixa.org/resources/model-policies/>
- Connecticut Coalition Against Domestic Violence & Connecticut Injury Prevention Center (2014). Intimate Partner Violence Policies on Campus: Best Practices for College Campuses in Connecticut. <http://www.ctcadv.org/resource-library/publications/ipv-polices-campus-2014/>
- Guidance for Creating a Campus Sexual Misconduct Prevention and Intervention Policy, North Carolina Sexual Violence Prevention Team (2013).
- Guidance for Creating Campus Domestic Violence, Dating Violence, and Stalking Prevention and Intervention Programs and Policies, NCCADV, 2015
- National Center for Victims of Crime (2011). Model Campus Stalking Policy. http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Model%20CAMPUS%20Stalking%20Policy%20%282%29.pdf

- Questions and Answers on Title IX and Sexual Violence (2014). US Department of Education, Office for Civil Rights. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

Intimate Partner Violence, Sexual Assault, and Stalking Data

- Edwards, K, Sylaska, K Intimate partner violence among LGBTQ+ college students. The Carsey School of Public Policy at the Scholar's Repository. Paper 210. <http://scholars.unh.edu/carsey/210>
- Knowledge Networks for Liz Claiborne, Inc. (2011). 2011 College Dating Violence and Abuse Poll. http://www.loveisrespect.org/pdf/College_Dating_And_Abuse_Final_Study.pdf
- Krebs CP, Linquist CH, Warner TD, Fisher BS, Martin SL (2009). College women's experiences with physically forced, alcohol- or other drug-enabled, and drug-facilitated sexual assault before and since entering college. *Journal of American College Health* 2009; 57(6):639-647.
- Lisak D, Miller, P (2002). Repeat Rape and Multiple Offending Among Undetected Rapists. *Violence and Victims*.
- Sellers, C, Bromley, M. (1996). Violent Behavior in College Student Dating Relationships. *Journal of Contemporary Justice*, 1996;12(1).
- The National Center for Victims of Crimes, Campus Dating Violence Fact Sheet, www.ncvc.org.

APPENDIX A

Safety Planning: A Guide for [YOUR INSTITUTION] Students

This safety plan should be completed by the victim/survivor along with a support person (counselor, advocate, etc.). It is important for the victim/survivor to take the lead while completing this plan so that they becomes familiar with the steps to take in case a situation arises. The victim/survivor should keep a copy of this plan in a place that is safe where the abuser will not be able to find it. If that is not possible, it should be kept with a close family member or friend.

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- i. Why do I Need a Safety Plan?
- ii. Online Safety
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- iv. Staying Safe in the Residence Halls
- v. Stalking
- vi. Trauma and You
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- viii. Local Off-campus Resources

I. Why do I Need a Safety Plan?

Everyone deserves to be in a relationship that is healthy, safe, and supportive. If you are in a relationship in which someone is hurting you, it is important for you to know that the abuse is not your fault. It is also important for you to start thinking of ways to keep yourself as safe as possible from the abuse, whether you decide to end the relationship or not. While you can't control your partner's abusive behavior, you can take action to keep yourself as safe as possible.

Planning ahead of time, and thinking through steps, can give you a feeling of control in a time when you need it most. And, it can help you to feel and be safe. If you prefer, use this interactive program to design a safety plan that works for you: <http://www.loveisrespect.org/get-help/safety-planning>. People who are transgender and/or gender non-conforming have other important considerations (<http://forge-forward.org/wp-content/docs/safety-planning-tool.pdf>). This safety plan combines elements from both resources. Further, thank you to Tammi Slovinsky and her colleagues at Virginia Commonwealth University for their contributions to this plan.

Support is available at [LOCATION OF ADVOCACY/SUPPORT SERVICES] to discuss your plan and offer additional ideas and resources. [ADD OTHER RELEVANT RESOURCES HERE].

If you are currently experiencing abuse or violence in a relationship:

- Think of a safe place to go if a situation becomes dangerous or scary - avoid rooms/spaces with no exits (bathroom, elevators), or rooms with weapons (kitchen area).

- Think about and make a list of supportive and safe people to contact. Keep a list that is separate from your cell phone contacts or memorize numbers in case your partner takes, disconnects, or damages your phone.
- Keep sources of money (cash, ATM/debit cards) with you at all times in a safe place where the abuser will not be able to find it. If it is not possible to keep it with you, leave it with a trusted family member or friend.
- Keep a fully-charged cell phone and portable phone charger with you at all times.
- Establish a "code word" or "sign" so that family, friends, teachers or co-workers know when to call for help. (EX: You can call a friend or 911 and "order a pizza")
- Think about what you will do or say to your partner if they become violent. You are the best resource when it comes to developing strategies to de-escalate potentially dangerous situations.

If you are in the process of leaving a relationship:

- Stay with friends, family or other people you trust or call the [CAMPUS OR COMMUNITY SHELTER SERVICES]
- Consider changing your phone number. You may want to keep the "old" number so your former partner does not know you have a new number, or to store messages for evidence collection purposes. The latter can be helpful if you decide to report to police.
- Save and document all contacts, messages, injuries or other incidents.
- Consider altering your social media privacy settings, and limiting your use if it becomes too difficult. Your former partner may use it to track you, to learn information about you through mutual friends, and to continue contact. If there is any chance your former partner knows any of your passwords, change them.
- Change locks if your former partner has access to a key.
- If you need to meet your former partner, consider meeting in a public place.
- Vary your routine, such as driving different routes to school or work.
- Notify school and work contacts, for example the Title IX Coordinator, Resident Assistants, and advisors. (If relevant, notify coaches, faith leaders, Greek "house parents").
- Provide a photo of the abuser to campus [SAFETY OR POLICE], as well as relevant Residence Life staff, including front desk workers, to help identify the abuser.

If you leave a relationship in which you are being abused, or are thinking of leaving, keep important papers and documents with you - make a checklist:

- ✓ Student I.D.
- ✓ Passport and Visas
- ✓ Social Security cards
- ✓ Driver's License
- ✓ Citizenship documentation
- ✓ Birth certificate(s)
- ✓ Licenses, leases or deeds in your name or both yours and your partner's names
- ✓ Debit/charge cards
- ✓ Bank statements and charge account statements
- ✓ Insurance cards
- ✓ Proof of income (pay stubs or W-2's- important if you need to rent)

- ✓ Documentation of past incidents of abuse (texts, online messaging, photos, police reports, medical records, etc.).
- ✓ If you have a protective order, keep a copy of it with you. Consider sharing this with trusted friends, family members, and/or neighbors.

Please note that [YOUR UNIVERSITY] Police/Campus Safety may issue orders prohibiting threatening persons from coming to campus. For any student experiencing sexual misconduct, including abuse, violence, stalking and/or harassment, [YOUR UNIVERSITY] will take interim measures to protect students' safety and/or well-being (including but not limited to, modification of on-campus living arrangements, academic accommodations, and coordinating with campus and local resources). Title IX applies to students of any gender, including female, male, gender non-conforming, and/or transgender students. To learn more, visit: [YOUR UNIVERSITY'S TITLE IX WEBSITE], KnowYourIX.org and notalone.gov

II. Online Safety

Social networking is a part of life for most people. It helps us feel connected, especially if we are far from the ones we love. You have the right to post things about yourself that you want the world to know. However, abusive people can use the internet and social media as a tool to track and harm another person. The following are suggestions to consider in using social media:

1. Use strong privacy and security settings. Take advantage of the security options provided by social networking services. When choosing appropriate options, err on the side of privacy to better protect your information. These services may change their options periodically, so regularly evaluate your security and privacy settings, looking for changes and ensuring that your selections are still appropriate. Also periodically review the services' privacy policies to see if there are any changes.
2. Avoid suspicious third-party apps. Look for apps developed by vendors you trust, and avoid apps that seem suspicious. Limit the amount of information third-party apps can access. Also limit apps' access to location information. You can change location settings from your device settings.
3. Despite your best efforts to use strong privacy and security settings, you should image that when you post something about yourself, it can reach your abuser and the general public. Consider limiting the amount of personal information you post, including any comments or photos.
4. Share information only with people you know. Although many users seek to establish as many contacts on these services as possible, consider sharing personal information only with people you trust. If you expand your contacts beyond people you are sure you can trust, check the service's settings to see if you can group your contacts and assign different levels of access based on your comfort level. Try to confirm that contacts are who they claim to be before giving them access to your information.
5. If it feels safe to do so, tell friends (particularly mutual friends) about the abuse. Ask them not

to accept social media requests from the abusive person(s) or share personal information about you.

6. Request that your friends ask you before they do a check in or tag you in a post or tweet. To be safe, tags and check-ins can be done several days after you meet up with friends if you think it is safe to do so. Some services allow you to control what is posted on your timeline by having to approve it. You can make this change in privacy settings.
7. Regardless of how restrictive you make your security settings, they may not offer complete privacy. An attacker or application may take advantage of software vulnerabilities, or another user may repost your information.
8. Google your name on a regular basis. This helps you to know if the abuser has posted images of you or information about you that you didn't consent to. If the abuser has posted explicit images of you without your consent, there are resources available for support and potentially to help you with "take-down" requests at <http://dmcadefender.com/victim-of-revenge-porn/> and <http://www.endrevengeporn.org/>.
9. For additional information on online safety, visit the [National Network to End Domestic Violence's privacy and safety guide for survivors](#).

III. Staying Safe on Campus

If a victim/survivor pursues charges through student conduct and/or the police, and the victim/survivor approves, it is recommended that universities remove the abuser from places that would interfere with the victims/survivors daily routine until the case has been adjudicated. Examples include changing the abusers housing, moving the abuser to another course section, scheduled dining times and study times, etc. If the victim/survivor does not feel comfortable with these accommodations or has not pursued any charges, universities are still required to provide victims/survivors with assistance and support. Taking all of this into account, here are some things to consider as you navigate campus:

1. The safest way for me to get to class or work is:
_____.
2. These are places on campus where I feel the least safe: _____,
_____ and _____. I will try and avoid these places as much as possible or try to go when my abuser won't be there.
3. If I feel threatened or unsafe when I am on campus, I can go to these public areas where I feel safe (library, dining hall, gym, student center, etc.) _____ and/or _____.
4. In addition to the police, these are phone numbers I can call if I feel unsafe (e.g. trusted friends, Title IX Coordinator, Advocate, Counselor, etc.):

IV. Staying Safe in the Residence Halls

1. I can tell these people (hall mates, roommates or Resident Assistant's) about what is going on in my relationship [IDENTIFY CONFIDENTIAL RESOURCES HERE AND WHETHER HOUSING STAFF ARE CONSIDERED CONFIDENTIAL OR NOT]: _____, _____ and _____.
2. There will be times when my roommate is gone. If I feel unsafe during those times, I can have people stay with me. I will ask: _____.
3. The safest way for me to leave my residence in an emergency is: _____.
4. The safest way for me to leave my abuser's residence in an emergency is: _____.
5. If I have to leave my residence hall in an emergency, I should try to go to a place that is public, safe and unknown by my abuser. I could go here: _____, and/or here _____.
6. I will use a code word/phrase so I can alert my family, friends, roommates and/or hall mates to call for help. My code word is: _____.

V. Stalking

The Stalking Resource Center has a wealth of information on stalking behavior, including a stalking log, to document incidents for reporting: <http://www.victimsofcrime.org/our-programs/stalking-resource-center/about-us>

Incidents include harassing phone calls, text messages, letters, e-mail messages, acts of vandalism, and threats communicated through third parties. When reporting the incidents to police, write down the officer's name and badge number for your own records. Even if the officers do not make an arrest, you can ask them to make a written report and request a copy for your records.

***Important note: Since this information could potentially be introduced as evidence or inadvertently shared with the stalker at a future time, do not include any information that you do not want the offender to see.**

Attach a photograph of the stalker, photocopies of restraining or no-contact orders, police reports, and other relevant documents. Keep the log in a safe place and tell only someone you trust where you keep your log. Here is a sample to get you started:

| Date | Time | Description of Incident | Location | Witness Names & Contact | Police Called Report Number | Officer Name Badge Number |
|------|------|-------------------------|----------|-------------------------|-----------------------------|---------------------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

VI. Trauma and You

People who experience violence, abuse and/or assault can have lasting traumatic emotional and physical impacts. Although everyone responds to trauma differently, some common feelings that survivors experience after a trauma include:

- Feelings of fear
- Feeling like you have lost control
- Difficulty concentrating
- Feeling guilty
- Feeling negative about yourself
- Depression
- Anxiety
- Persistent and invasive thoughts.
- Problems in your relationships
- Nightmares and trouble sleeping.
- Avoiding memories, feelings, people or places associated with your experience

It is common for people who experience trauma to also develop unhealthy coping skills such as:

- Alcohol abuse

- Substance abuse
- Withdrawing from friends/family
- Withdrawing from activities
- Disordered eating habits (too much or not enough)

Please use the following prompts to help explore your thoughts and feelings. Feel free to discuss this with a trusted counselor or friend:

1. When I experience _____, I feel triggered/activated and afraid.
2. If I am triggered/activated I will _____, _____, and _____ to help me feel grounded and safe.
3. When I need a break, I will: _____ (talk to friends, take a walk...)
4. If I have trouble sleeping, I will call: _____ or: _____
5. I am proud of myself because: _____
6. I am strong because: _____
7. If I feel confused, depressed or scared, I can call the following people:

Name: _____

Phone #: _____

Name: _____

Phone #: _____

Name: _____

Phone #: _____

VII. ON-CAMPUS RESOURCES

[LIST ON-CAMPUS RESOURCES HERE AND IDENTIFY WHO IS CONFIDENTIAL]

VIII. LOCAL OFF-CAMPUS RESOURCES

[LIST OFF-CAMPUS RESOURCES HERE AND IDENTIFY WHO IS CONFIDENTIAL]

APPENDIX B

Model Timely Warning

Intended Audience: *The entity(s) on campus that write and issue timely warnings (e.g. campus law enforcement, Title IX Coordinator, Communications, etc.).*

For the purpose of this template, dating violence and domestic violence will be referred to as interpersonal violence or IPV.

Working with the Victim/Survivor Before and After Issuing the Warning

It is recommended that, if the victim/survivor wants to, you write the incident summary with them. This step can help to empower the victim/survivor by allowing them to choose the language that feels most comfortable to them. This process also makes it so that the victim/survivor knows what to expect when the warning is issued, potentially decreasing emotional trauma. It is also recommended that you let the victim/survivor know when and in what format (email, text, etc.) the alert will be issued, and what information will be included. If the victim/survivor has been supported by an advocate during that process, it is also recommended that you let the advocate know that information as well.

Making the Decision to Issue a Timely Warning

The Clery Act requires institutions to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. Timely warnings are only required for Clery-reportable crimes that occur on Clery Geography although institutions are encouraged to issue appropriate warnings regarding other criminal activity that may pose a serious threat as well.

More information on issuing a timely warning is available on pages 97-118 of the 2011 document, [The Handbook for Campus Safety and Security Reporting](#).

Example Timely Warning

Date of Incident:

Location:

Crime/Offense:

Summary: (for what to include in your summary, please view pages 97-118 of the 2011 document, [The Handbook for Campus Safety and Security Reporting](#).)

“[YOUR INSTITUTION] is providing resources and advocacy to assist the individual(s) involved in this incident, and will continue to take actions to maintain the safety and security of the campus community.”

Suspect Information:

If you have any additional information that might assist [YOUR INSTITUTION] in our investigation, please contact [DEPARTMENT NAME OR PERSONNEL NAME] at [PHONE NUMBER] or [EMAIL ADDRESS]. You may also report crimes anonymously at [INSERT CONTACT INFO HERE].

It is important that everyone in our community familiarizes themselves with what constitutes [SELECT RELEVANT CRIME: SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE OR STALKING] under the [RELEVANT POLICIES OR CODE OF STUDENT CONDUCT NAME] (hyperlink these here) and that we, as a community, be vigilant in stopping it. Those individuals who are not willing to live by a code of mutual consent, respect and concern are not welcome in our community.

SIGNS OF ABUSE

The following is a list of warning signs of abuse. Engaging in any of these behaviors is unhealthy and likely abuse. They are also a violation of [YOUR INSTITUTION’S RELEVANT POLICY OR CODE OF STUDENT CONDUCT]:

- Checking your partner’s cell phone, social media pages, or email without permission
- Constantly putting your partner down
- Exhibiting extreme jealousy or insecurity
- Isolating your partner from family/friends
- Physically hurting your partner
- Telling your partner what to do, what to wear, where to go, who to be with, etc.
- Coercing, manipulating, or threatening your partner to have sex
- Intimidating your partner
- Breaking your partner’s cell phone or damaging other personal property
- Threatening to spread rumors about your partner or expose their secrets
- Showing nude or inappropriate pictures of you to others without your consent, including through text or social media

PREVENTION

- Treat everyone with kindness and respect.
- Make sure you have consent. Consent is clearly, freely, and willingly given. It is a yes, not the absence of no.
- People who are incapacitated by drugs or alcohol cannot give consent.

- Do not subscribe to traditional gender roles that support the ideal that men are more powerful and dominant than women.
- Do not engage in, supporting, or encouraging sexual harassment including sexist jokes.
- Be active in supporting a safe, respectful, and equitable community. Hold people accountable for their abusive behavior, sexist jokes, and use of degrading language.
- Safely intervene and/or call for help if you witness disrespectful or inappropriate behavior, or a violent crime.

REMEMBER

- IPV, stalking, and sexual violence are crimes that someone chooses to commit. The responsibility always lies with the perpetrator-not the victim/survivor. No one deserves, asks for, or provokes IPV, stalking, or sexual violence. (HYPERLINK THE WORDS IPV, STALKING and SEXUAL VIOLENCE, TO YOUR INSTITUTION POLICY DEFINITIONS AND/OR STATE LAW).
- IPV, stalking and sexual violence happen in all communities, and people of all gender identities can be both the perpetrators as well as the victims/survivors. [YOUR INSTITUTION] Student Code of Conduct AND/OR IPV, stalking, or sexual violence policy, and North Carolina law prohibit IPV, stalking, and sexual violence. (HYPERLINK TO POLICIES AND LAWS)
- Trust your intuition -- if you feel your relationship is unhealthy it probably is.
- If you feel afraid, utilize campus transportation resources [WEBSITE OR PHONE NUMBER TO INSTITUTION ESCORT SERVICES].
- If you feel threatened on campus, look for a blue light emergency phone or call 911.

RESOURCES

[YOUR INSTITUTION] is here for you. If you have experienced IPV, stalking, and/or sexual violence, we encourage you to share this information with us so that we can provide you with support, resources, options, and/or medical attention. Sharing information does not automatically ensure a police investigation. The following is a list of resources available to you: [LIST INSTITUTION AND COMMUNITY RESOURCES HERE, AND HIGHLIGHT WHICH ARE CONFIDENTIAL].

For status updates, see the [INSTITUTION WEBSITE/PHONE NUMBER THAT PROVIDES THIS INFORMATION].

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), 20 U.S.C. 1092 (f), [YOUR INSTITUTION] issues timely notices to notify the campus community of Clery Act crimes or other serious incidents that the institution determines represent a serious and ongoing threat to the campus. The College/University may distribute timely notices using a variety of means, including emails, text messages, flyers, and website announcements posted on the Campus Law Enforcement/Campus Safety website [CAMPUS LAW ENFORCEMENT/CAMPUS SAFETY WEBSITE HERE].

APPENDIX C

North Carolina Criminal and Civil Statutes Related to Domestic Violence, Stalking, and Sexual Violence

*All of the following North Carolina Statutes can be found at <http://ncleg.net/>

North Carolina Criminal Statutes Related to IPV, Stalking, and Sexual Violence

Arrests/Procedural Issues

§ 15A-401. Arrest by law-enforcement officer.

- (a) Arrest by Officer Pursuant to a Warrant. -
 - (1) Warrant in Possession of Officer. - An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.
 - (2) Warrant Not in Possession of Officer. - An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.
- (b) Arrest by Officer Without a Warrant. -
 - (1) Offense in Presence of Officer. - An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense, or has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2), in the officer's presence.
 - (2) Offense Out of Presence of Officer. - An officer may arrest without a warrant any person who the officer has probable cause to believe:
 - a. Has committed a felony; or
 - b. Has committed a misdemeanor, and:
 - 1. Will not be apprehended unless immediately arrested, or
 - 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
 - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
 - d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
 - e. Has committed a misdemeanor under G.S. 50B-4.1(a); or
 - f. Has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2).

§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.

(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- (1) Upon a determination by the judge that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.
- (2) A judge may impose the following conditions on pretrial release:
 - a. That the defendant stay away from the home, school, business or place of employment of the alleged victim.
 - b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim.
 - c. That the defendant refrain from removing, damaging or injuring specifically identified property.
 - d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.
 - e. That the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.
- (3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply.

(b) A defendant may be retained in custody not more than 48 hours from the time of arrest without a determination being made under this section by a judge. If a judge has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act under the provisions of this section.

Assaults

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition

that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony.

§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

- (1) through (3) Repealed by Session Laws 1995, c. 507, s. 19.5(b);
- (4) through (7) Repealed by Session Laws 1991, c. 525, s. 1;
- (8) Repealed by Session Laws 1995, c. 507, s. 19.5(b);
- (9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

- (1) Inflicts serious injury upon another person or uses a deadly weapon;
- (2) Assaults a female, he being a male person at least 18 years of age;
- (3) Assaults a child under the age of 12 years;
- (4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties;
- (5) Repealed by Session Laws 1999-105, s. 1, effective December 1, 1999; or
- (6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:
 - a. "Duties" means:
 1. All activities on school property;
 2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and
 3. All activities relating to the operation of school transportation.

- b. "Employee" or "volunteer" means:
 - 1. An employee of a local board of education; or a charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
 - 2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and
 - 3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision.
- (7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties.
- (8) Assaults a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 74G, Chapter 17C, or Chapter 116 of the General Statutes in the performance of that person's duties.

(c1) No school personnel as defined in G.S. 14-33(c)(6) who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions.

(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

- (1) "Personal relationship" is as defined in G.S. 50B-1(b).
- (2) "In the presence of a minor" means that the minor was in a position to have observed the assault.
- (3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault.

§ 14-33.2. Habitual misdemeanor assault.

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of G.S. 14-33 and causes physical injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation. A conviction under this

section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony.

§ 14-34. Assaulting by pointing gun.

If any person shall point any gun or pistol at any person, either in fun or otherwise, whether such gun or pistol be loaded or not loaded, he shall be guilty of a Class A1 misdemeanor.

Stalking- Related Offenses

§ 14-196. Using profane, indecent or threatening language to any person over telephone; annoying or harassing by repeated telephoning or making false statements over telephone.

(a) It shall be unlawful for any person:

- (1) To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent character, nature or connotation;
- (2) To use in telephonic communications any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;
- (3) To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing any person at the called number;
- (4) To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of another;
- (5) To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct or criminal conduct of the person telephoned or of any member of his family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass;
- (6) To knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

(b) Any of the above offenses may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. For purposes of this section, the term "telephonic communications" shall include communications made or received by way of a telephone answering machine or recorder, telefacsimile machine, or computer modem.

(c) Anyone violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

§ 14-196.3. Cyberstalking.

(a) The following definitions apply in this section:

- (1) Electronic communication. - Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.
- (2) Electronic mail. - The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(b) It is unlawful for a person to:

- (1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling,

spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

- (2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.
- (3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.
- (4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

(c) Any offense under this section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State.

(d) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly

§ 14-277.3A. Stalking.

(a) Legislative Intent. - The General Assembly finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time.

The General Assembly recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The General Assembly intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The General Assembly recognizes that stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.

(b) Definitions. - The following definitions apply in this section:

- (1) Course of conduct. - Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (2) Harasses or harassment. - Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific

person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.

- (3) Reasonable person. - A reasonable person in the victim's circumstances.
- (4) Substantial emotional distress. - Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) Offense. - A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

- (1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

(d) Classification. - A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

(e) Jurisdiction. - Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State.

Trespassing

§ 14-134.3. Domestic criminal trespass.

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

- (1) A judicial order of separation;
- (2) A court order directing the person charged to stay away from the premises occupied by the complainant;
- (3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or
- (4) Separate places of residence for the complainant and the person charged.

Except as provided in subsection (b) of this section, upon conviction, said person is guilty of a Class 1 misdemeanor.

(b) A person convicted of a violation of this section is guilty of a Class G felony if the person is trespassing upon property operated as a safe house or haven for victims of domestic violence and the person is armed with a deadly weapon at the time of the offense.

Threats

§ 14-277.1. Communicating threats.

- (a) A person is guilty of a Class 1 misdemeanor if without lawful authority:
 - (1) He willfully threatens to physically injure the person or that person's child, sibling, spouse, or dependent or willfully threatens to damage the property of another;
 - (2) The threat is communicated to the other person, orally, in writing, or by any other means;
 - (3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and
 - (4) The person threatened believes that the threat will be carried out.
- (b) A violation of this section is a Class 1 misdemeanor.

Damage to Property

§ 14-127. Willful and wanton injury to real property.

If any person shall willfully and wantonly damage, injure or destroy any real property whatsoever, either of a public or private nature, he shall be guilty of a Class 1 misdemeanor

§ 14-160. Willful and wanton injury to personal property; punishments.

- (a) If any person shall wantonly and willfully injure the personal property of another he shall be guilty of a Class 2 misdemeanor.
- (b) Notwithstanding the provisions of subsection (a), if any person shall wantonly and willfully injure the personal property of another, causing damage in an amount in excess of two hundred dollars (\$200.00), he shall be guilty of a Class 1 misdemeanor.
- (c) This section applies to injuries to personal property without regard to whether the property is destroyed or not.

Miscellaneous

§ 14-286.2. Interfering with emergency communication.

- (a) Offense. - A person who intentionally interferes with an emergency communication, knowing that the communication is an emergency communication, and who is not making an emergency communication himself, is guilty of a Class A1 misdemeanor. In addition, a person who interferes with a communications instrument or other emergency equipment with the intent to prevent an emergency communication is guilty of a Class A1 misdemeanor.
- (b) Repealed by Session Laws 2001-148, s. 1.
- (b1) Definitions. - The following definitions apply in this section:
 - (1) Emergency communication. - The term includes communications to law enforcement agencies or other emergency personnel, or other individuals, relating or intending to relate that an individual is or is reasonably believed to be, or reasonably believes himself or another person to be, in imminent danger of bodily injury, or that an individual reasonably believes that his property or the property of another is in imminent danger of substantial damage, injury, or theft.
 - (2) Intentional interference. - The term includes forcefully removing a communications instrument or other emergency equipment from the possession of another, hiding a communications instrument or other emergency equipment from another, or otherwise making a communications instrument or other emergency equipment unavailable to another, disconnecting a communications

instrument or other emergency equipment, removing a communications instrument from its connection to communications lines or wavelengths, damaging or otherwise interfering with communications equipment or connections between a communications instrument and communications lines or wavelengths, disabling a theft-prevention alarm system, providing false information to cancel an earlier call or otherwise falsely indicating that emergency assistance is no longer needed when it is, and any other type of interference that makes it difficult or impossible to make an emergency communication or that conveys a false impression that emergency assistance is unnecessary when it is needed

Rape and Other Sex Offenses

§ 14-27.1. Definitions.

As used in this Article, unless the context requires temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(2) "Mentally incapacitated" means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(3) "Physically helpless" means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(4) "Sexual act" means cunnilingus, fellatio, anilingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

(5) "Sexual contact" means:

(i) touching the sexual organ, anus, breast, groin, or buttocks of any person,

(ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or

(iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

(6) "Touching" as used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (1979, c. 682, s. 1; 2002-159, s. 2(a); 2003-252, s. 1; 2006-247, s. 12(a).)

§ 14-27.2. First-degree rape.

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

- c. The person commits the offense aided and abetted by one or more other persons.
- (b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.
- (c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7.)

§ 14-27.2A. Rape of a child; adult offender.

- (a) A person is guilty of rape of a child if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.
- (b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.
- (c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.
- (d) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.
- (e) The offense under G.S. 14-27.2(a)(1) is a lesser included offense of the offense in this section. (2008-117, s. 1.)

§ 14-27.3. Second-degree rape.

- (a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:
- (1) By force and against the will of the other person; or
 - (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.
- (b) Any person who commits the offense defined in this section is guilty of a Class C felony.
- (c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the

General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 5; 1981, cc. 63, 179; 1993, c. 539, s. 1130; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(b); 2004-128, s. 8.)

§ 14-27.4. First-degree sexual offense.

- (a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:
- (1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or
 - (2) With another person by force and against the will of the other person, and:
 - a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or
 - b. Inflicts serious personal injury upon the victim or another person; or
 - c. The person commits the offense aided and abetted by one or more other persons.
- (b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 106, ss. 3, 4; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3.)

§ 14-27.4A. Sexual offense with a child; adult offender.

- (a) A person is guilty of sexual offense with a child if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.
- (b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.
- (c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.
- (d) The offense under G.S. 14-27.4(a)(1) is a lesser included offense of the offense in this section. (2008-117, s. 2.)

§ 14-27.5. Second-degree sexual offense.

- (a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:
- (1) By force and against the will of the other person; or
 - (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally

disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 7; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1131; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(c).)

§ 14-27.5A. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. (2003-252, s. 2.)

§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section.

(b) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers. A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor. This subsection shall apply unless the conduct is covered under some other provision of law providing for greater punishment. Consent is not a defense to a charge under this section. For purposes of this subsection, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this subsection, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 9; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1132; 1994, Ex. Sess., c. 24, s. 14(c); 1999-300, s. 2; 2003-98, s. 1.)

§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is at least six years older than the person, except when the defendant is lawfully married to the person.

(b) A defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is more than four

but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1.)

§ 14-27.8. No defense that victim is spouse of person committing act.

A person may be prosecuted under this Article whether or not the victim is the person's legal spouse at the time of the commission of the alleged rape or sexual offense. (1979, c. 682, s. 1; 1987, c. 742; 1993, c. 274.)

§ 14-27.9. No presumption as to incapacity.

In prosecutions under this Article, there shall be no presumption that any person under the age of 14 years is physically incapable of committing a sex offense of any degree or physically incapable of committing rape, or that a male child under the age of 14 years is incapable of engaging in sexual intercourse. (1979, c. 682, s. 1.)

§ 14-27.10. Evidence required in prosecutions under this Article.

It shall not be necessary upon the trial of any indictment for an offense under this Article where the sex act alleged is vaginal intercourse or anal intercourse to prove the actual emission of semen in order to constitute the offense; but the offense shall be completed upon proof of penetration only. Penetration, however slight, is vaginal intercourse or anal intercourse. (1979, c. 682, s. 1.)

North Carolina Civil Statutes Related to IPV, and Stalking, and Sexual Violence

§ 50B-1. Domestic violence; definition.

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties. (1979, c. 561, s. 1; 1985, c. 113, s. 1; 1987, c. 828; 1987 (Reg. Sess., 1988), c. 893, ss. 1, 3; 1995 (Reg. Sess., 1996), c. 591, s. 1; 1997-471, s. 1; 2001-518, s. 3; 2003-107, s. 1; 2009-58, s. 5.)

§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders; temporary custody.

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. Any action for a domestic violence protective order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. In compliance with the federal Violence Against Women Act, no court costs or attorneys' fees shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena, except as provided in G.S. 1A-1, Rule 11.

(b) Emergency Relief. - A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. -

- (1) Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter orders as it deems necessary to protect the aggrieved party or minor children from those acts.
- (2) A temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse.
- (3) If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to (i) stay away from a minor child, or (ii) return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child.
- (4) If the court determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the

aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party.

- (5) Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. A continuance shall be limited to one extension of no more than 10 days unless all parties consent or good cause is shown. The hearing shall have priority on the court calendar.
- (6) If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county.
- (7) Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. - The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter orders as it deems necessary to protect the aggrieved party or minor children from those acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse. If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the magistrate finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the magistrate determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex

parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. - The clerk of superior court of each county shall provide to pro se complainants all forms that are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. The clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section. (1979, c. 561, s. 1; 1985, c. 113, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 893, s. 2; 1989, c. 461, s. 1; 1994, Ex. Sess., c. 4, s. 1; 1997-471, s. 2; 2001-518, s. 4; 2002-126, s. 29A.6(a); 2004-186, ss. 17.2, 19.1; 2009-342, s. 2; 2012-20, s. 1; 2013-390, s. 1.)

§ 50B-3. Relief.

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

- (1) Direct a party to refrain from such acts.
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
- (3) Require a party to provide a spouse and his or her children suitable alternate housing.
- (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process.
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it.
- (6) Order either party to make payments for the support of a minor child as required by law.
- (7) Order either party to make payments for the support of a spouse as required by law.
- (8) Provide for possession of personal property of the parties, including the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- (9) Order a party to refrain from doing any or all of the following:
 - a. Threatening, abusing, or following the other party.
 - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.
 - b1. Cruelly treating or abusing an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
 - c. Otherwise interfering with the other party.
- (10) Award attorney's fees to either party.

- (11) Prohibit a party from purchasing a firearm for a time fixed in the order.
 - (12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission.
 - (13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.
- (a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:
- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
 - (2) For purposes of determining custody and visitation issues, the court shall consider:
 - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
 - b. Whether the minor child was present during acts of domestic violence.
 - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
 - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
 - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
 - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
 - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
 - h. Whether a party has abused or endangered the minor child during visitation.
 - i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
 - j. Whether a party has improperly concealed or detained the minor child.
 - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
 - (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
 - a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
 - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
 - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
 - d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
 - e. Ordering the noncustodial parent to pay the costs of supervised visitation.
 - f. Prohibiting overnight visitation.

- g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
- h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
- i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

- (4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed two years, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(b1) A consent protective order may be entered pursuant to this Chapter without findings of fact and conclusions of law if the parties agree in writing that no findings of fact and conclusions of law will be included in the consent protective order. The consent protective order shall be valid and enforceable and shall have the same force and effect as a protective order entered with findings of fact and conclusions of law.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order.

(c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that includes:

- (1) Domestic violence agencies and services.
- (2) Sexual assault agencies and services.

- (3) Victims' compensation services.
- (4) Legal aid services.
- (5) Address confidentiality services.
- (6) An explanation of the plaintiff's right to apply for a permit under G.S. 14-415.15.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, renewals, and dismissals of the order shall also be promptly entered. (1979, c. 561, s. 1; 1985, c. 463; 1994, Ex. Sess., c. 4, s. 2; 1995, c. 527, s. 1; 1995 (Reg. Sess., 1996), c. 591, s. 2; c. 742, s. 42.1.; 1999-23, s. 1; 2000-125, s. 9; 2002-105, s. 2; 2002-126, s. 29A.6(b); 2003-107, s. 2; 2004-186, ss. 17.3-17.5; 2005-343, s. 2; 2005-423, s. 1; 2007-116, s. 3; 2009-425, s. 1; 2013-237, s. 1.)

§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.

(a) Required Surrender of Firearms. - Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors:

- (1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.
- (2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.
- (3) Threats to commit suicide by the defendant.
- (4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

(b) Ex Parte or Emergency Hearing. - The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. - The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. - Upon service of the order, the defendant shall immediately surrender to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

- (1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the order, including that the defendant is prohibited from possessing, purchasing, or receiving or attempting to possess, purchase, or receive a firearm for so long as the protective order or

any successive protective order is in effect. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.

- (2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. - If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order.

(f) Motion for Return. - The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order and not later than 90 days after the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been renewed.
- (2) Whether the defendant is subject to any other protective orders.
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.
- (4) Whether the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or if the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order until the final disposition of those charges.

(g) Motion for Return by Third-Party Owner. - A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing

and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. - If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law, including subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

- (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;
- (2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or
- (3) Provide false information to the court pertaining to any of these items.

(j) Violations. - In accordance with G.S. 14-269.8, it is unlawful for any person to possess, purchase, or receive or attempt to possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. - This section shall not prohibit law enforcement officers and members of any branch of the Armed Forces of the United States, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter. (2003-410, s. 1; 2004-203, s. 34(a); 2005-287, s. 4; 2005-423, ss. 2, 3; 2011-183, s. 40; 2011-268, ss. 23, 24.)

§ 50B-4. Enforcement of orders.

(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. This party may file and proceed with that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible

date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(b) Repealed by Session Laws 1999-23, s. 2, effective February 1, 2000.

(c) A valid protective order entered pursuant to this Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court.

(d) A valid protective order entered by the courts of another state or the courts of an Indian tribe shall be accorded full faith and credit by the courts of North Carolina whether or not the order has been registered and shall be enforced by the courts and the law enforcement agencies of North Carolina as if it were an order issued by a North Carolina court. In determining the validity of an out-of-state order for purposes of enforcement, a law enforcement officer may rely upon a copy of the protective order issued by another state or the courts of an Indian tribe that is provided to the officer and on the statement of a person protected by the order that the order remains in effect. Even though registration is not required, a copy of a protective order may be registered in North Carolina by filing with the clerk of superior court in any county a copy of the order and an affidavit by a person protected by the order that to the best of that person's knowledge the order is presently in effect as written. Notice of the registration shall not be given to the defendant. Upon registration of the order, the clerk shall promptly forward a copy to the sheriff of that county. Unless the issuing state has already entered the order, the sheriff shall provide for prompt entry of the order into the National Crime Information Center registry pursuant to G.S. 50B-3(d).

(e) Upon application or motion by a party to the court, the court shall determine whether an out-of-state order remains in full force and effect.

(f) The term "valid protective order," as used in subsections (c) and (d) of this section, shall include an emergency or ex parte order entered under this Chapter. (1979, c. 561, s. 1; 1985, c. 113, s. 4; 1987, c. 739, s. 6; 1989, c. 461, s. 2; 1994, Ex. Sess., c. 4, s. 3; 1995 (Reg. Sess., 1996), c. 591, s. 3; 1999-23, s. 2; 2002-126, s. 29A.6(c); 2003-107, s. 3; 2009-342, s. 4.)

§ 50B-4.1. Violation of valid protective order.

(a) Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs.

(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply

to a person who is charged with or convicted of a Class A or B1 felony or to a person charged under subsection (f) or subsection (g) of this section.

(e) An indictment or information that charges a person with committing felonious conduct as described in subsection (d) of this section shall also allege that the person knowingly violated a valid protective order as described in subsection (a) of this section in the course of the conduct constituting the underlying felony. In order for a person to be punished as described in subsection (d) of this section, a finding shall be made that the person knowingly violated the protective order in the course of conduct constituting the underlying felony.

(f) Unless covered under some other provision of law providing greater punishment, any person who knowingly violates a valid protective order as provided in subsection (a) of this section, after having been previously convicted of two offenses under this Chapter, shall be guilty of a Class H felony.

(g) Unless covered under some other provision of law providing greater punishment, any person who, while in possession of a deadly weapon on or about his or her person or within close proximity to his or her person, knowingly violates a valid protective order as provided in subsection (a) of this section by failing to stay away from a place, or a person, as so directed under the terms of the order, shall be guilty of a Class H felony.

(g1) Unless covered under some other provision of law providing greater punishment, any person who is subject to a valid protective order, as provided in subsection (a) of this section, who enters property operated as a safe house or haven for victims of domestic violence, where a person protected under the order is residing, shall be guilty of a Class H felony. A person violates this subsection regardless of whether the person protected under the order is present on the property.

(h) For the purposes of this section, the term "valid protective order" shall include an emergency or ex parte order entered under this Chapter. (1997-471, s. 3; 1997-456, s. 27; 1999-23, s. 4; 2001-518, s. 5; 2007-190, s. 1; 2008-93, s. 1; 2009-342, s. 5; 2009-389, s. 2; 2010-5, s. 1.)

§ 50B-4.2. False statement regarding protective order a misdemeanor.

A person who knowingly makes a false statement to a law enforcement agency or officer that a protective order entered pursuant to this Chapter or by the courts of another state or Indian tribe remains in effect shall be guilty of a Class 2 misdemeanor. (1999-23, s. 5.)

§ 50B-5. Emergency assistance.

(a) A person who alleges that he or she or a minor child has been the victim of domestic violence may request the assistance of a local law enforcement agency. The local law enforcement agency shall respond to the request for assistance as soon as practicable. The local law enforcement officer responding to the request for assistance may take whatever steps are reasonably necessary to protect the complainant from harm and may advise the complainant of sources of shelter, medical care, counseling and other services. Upon request by the complainant and where feasible, the law enforcement officer may transport the complainant to appropriate facilities such as hospitals, magistrates' offices, or public or private facilities for shelter and accompany the complainant to his or her residence, within the jurisdiction in which the request for assistance was made, so that the complainant may remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings.

(b) In providing the assistance authorized by subsection (a), no officer may be held criminally or civilly liable on account of reasonable measures taken under authority of subsection (a). (1979, c. 561, s. 1; 1985, c. 113, s. 5; 1999-23, s. 6.)

§ 50B-5.5. Employment discrimination unlawful.

(a) No employer shall discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain or attempt to obtain relief under this Chapter. An employee who is absent from the workplace shall follow the employer's usual time-off policy or procedure, including advance notice to the employer, when required by the employer's usual procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of any emergency that prevented the employee from complying in advance with the employer's usual time-off policy or procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

(b) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to the Article. (2004-186, s. 18.1.)

§ 50B-6. Construction of Chapter.

This Chapter shall not be construed as granting a status to any person for any purpose other than those expressly stated herein. This Chapter shall not be construed as relieving any person or institution of the duty to report to the department of social services, as required by G.S. 7B-301, if the person or institution has cause to suspect that a juvenile is abused or neglected. (1979, c. 561, s. 1; 1985, c. 113, s. 6; 1998-202, s. 13(r).)

§ 50B-7. Remedies not exclusive.

The remedies provided by this Chapter are not exclusive but are additional to remedies provided under Chapter 50 and elsewhere in the General Statutes. (1979, c. 561, s. 1.)

§ 50B-8. Effect upon prosecution for violation of § 14-184 or other offense against public morals.

The granting of a protective order, prosecution for violation of this Chapter, or the granting of any other relief or the institution of any other enforcement proceedings under this Chapter shall not be construed to afford a defense to any person or persons charged with fornication and adultery under G.S. 14-184 or charged with any other offense against the public morals; and prosecution, conviction, or prosecution and conviction for violation of any provision of this Chapter shall not be a bar to prosecution for violation of G.S. 14-184 or of any other statute defining an offense or offenses against the public morals. (1979, c. 561, s. 1; 2003-107, s. 4.)

§ 50B-9. Domestic Violence Center Fund.

The Domestic Violence Center Fund is established within the State Treasury. The fund shall be administered by the Department of Administration, North Carolina Council for Women, and shall be used to make grants to centers for victims of domestic violence and to The North Carolina Coalition Against Domestic Violence, Inc. This fund shall be administered in accordance with the provisions of the Executive Budget Act. The Department of Administration shall make quarterly grants to each eligible domestic violence center and to The North Carolina Coalition Against Domestic Violence, Inc. Each grant recipient shall receive the same amount. To be eligible to receive funds under this section, a domestic violence center must meet the following requirements:

- (1) It shall have been in operation on the preceding July 1 and shall continue to be in operation.

- (2) It shall offer all of the following services: a hotline, transportation services, community education programs, daytime services, and call forwarding during the night and it shall fulfill other criteria established by the Department of Administration.
- (3) It shall be a nonprofit corporation or a local governmental entity. (1991, c. 693, s. 3; 1991 (Reg. Sess., 1992), c. 988, s. 1.)

§ 50C-1. Definitions.

The following definitions apply in this Chapter:

- (1) Abuse. - To physically or mentally harm, harass, intimidate, or interfere with the personal liberty of another.
- (2) Civil no-contact order. - An order granted under this Chapter, which includes a remedy authorized by G.S. 50C-5.
- (3) Nonconsensual. - A lack of freely given consent.
- (4) Sexual conduct. - Any intentional or knowing touching, fondling, or sexual penetration by a person, either directly or through clothing, of the sexual organs, anus, or breast of another, whether an adult or a minor, for the purpose of sexual gratification or arousal. For purposes of this subdivision, the term shall include the transfer or transmission of semen.
- (5) Repealed by Session Laws 2004-199, s. 50, effective August 17, 2004.
- (6) Stalking. - On more than one occasion, following or otherwise harassing, as defined in G.S. 14-277.3A(b)(2), another person without legal purpose with the intent to do any of the following:
 - a. Place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
 - b. Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.
- (7) Unlawful conduct. - The commission of one or more of the following acts by a person 16 years of age or older upon a person, but does not include acts of self-defense or defense of others:
 - a. Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct.
 - b. Stalking.
- (8) Victim. - A person against whom an act of unlawful conduct has been committed by another person not involved in a personal relationship with the person as defined in G.S. 50B-1(b). (2004-194, s. 1; 2004-199, s. 50; 2007-199, s. 1; 2009-58, s. 6.)

§ 50C-2. Commencement of action; filing fees not permitted; assistance.

- (a) An action is commenced under this Chapter by filing a verified complaint for a civil no-contact order in district court or by filing a motion in any existing civil action, by any of the following:
 - (1) A person who is a victim of unlawful conduct that occurs in this State.
 - (2) A competent adult who resides in this State on behalf of a minor child or an incompetent adult who is a victim of unlawful conduct that occurs in this State.
- (b) No court costs or attorneys' fees shall be assessed for the filing or service of the complaint, or the service of any orders, except as provided in G.S. 1A-1, Rule 11.

(c) An action commenced under this Chapter may be filed in any county permitted under G.S. 1-82 or where the unlawful conduct took place.

(d) If the victim states that disclosure of the victim's address would place the victim or any member of the victim's family or household at risk for further unlawful conduct, the victim's address may be omitted from all documents filed with the court. If the victim has not disclosed an address under this subsection, the victim shall designate an alternative address to receive notice of any motions or pleadings from the opposing party. (2004-194, s. 1; 2013-390, s. 2.)

§ 50C-3. Process for action for no-contact order.

(a) Any action for a civil no-contact order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the respondent to answer within 10 days of the date of service. Attachments to the summons shall include the complaint for the civil no-contact order, and any temporary civil no-contact order that has been issued and the notice of hearing on the temporary civil no-contact order.

(b) Service of the summons and attachments shall be by the sheriff by personal delivery in accordance with Rule 4 of the Rules of Civil Procedure, and if the respondent cannot with due diligence be served by the sheriff by personal delivery, the respondent may be served by publication by the complainant in accordance with Rule 4(j1) of the Rules of Civil Procedure.

(c) The court may enter a civil no-contact order by default for the remedy sought in the complaint if the respondent has been served in accordance with this section and fails to answer as directed, or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court. (2004-194, s. 1; 2009-342, s. 3.)

§ 50C-4. Hearsay exception.

In proceedings for an order or prosecutions for violation of an order under this Chapter, the prior sexual activity or the reputation of the victim is inadmissible except when it would be admissible in a criminal prosecution under G.S. 8C, Rule 412. (2004-194, s. 1.)

§ 50C-5. Civil no-contact order; remedy.

(a) Upon a finding that the victim has suffered unlawful conduct committed by the respondent, the court may issue temporary or permanent civil no-contact orders as authorized in this Chapter. In determining whether or not to issue a civil no-contact order, the court shall not require physical injury to the victim.

(b) The court may grant one or more of the following forms of relief in its orders under this Chapter:

- (1) Order the respondent not to visit, assault, molest, or otherwise interfere with the victim.
- (2) Order the respondent to cease stalking the victim, including at the victim's workplace.
- (3) Order the respondent to cease harassment of the victim.
- (4) Order the respondent not to abuse or injure the victim.
- (5) Order the respondent not to contact the victim by telephone, written communication, or electronic means.
- (6) Order the respondent to refrain from entering or remaining present at the victim's residence, school, place of employment, or other specified places at times when the victim is present.

(7) Order other relief deemed necessary and appropriate by the court, including assessing attorneys' fees to either party.

(c) A civil no-contact order shall include the following notice, printed in conspicuous type: "A knowing violation of a civil no-contact order shall be punishable as contempt of court which may result in a fine or imprisonment." (2004-194, s. 1; 2013-390, s. 5.)

§ 50C-6. Temporary civil no-contact order; court holidays and evenings.

(a) A temporary civil no-contact order may be granted ex parte, without evidence of service of process or notice, only if both of the following are shown:

(1) It clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the victim before the respondent can be heard in opposition.

(2) Either one of the following:

a. The complainant certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required.

b. The complainant certified to the court that there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given any prior notice of the complainant's efforts to obtain judicial relief.

(b) Every temporary civil no-contact order granted without notice shall:

(1) Be endorsed with the date and hour of issuance.

(2) Be filed immediately in the clerk's office and entered of record.

(3) Define the injury, state why it is irreparable and why the order was granted without notice.

(4) Expire by its terms within such time after entry, not to exceed 10 days.

(5) Give notice of the date of hearing on the temporary order as provided in G.S. 50C-8(a).

(c) If the respondent appears in court for a hearing on a temporary order, the respondent may elect to file a general appearance and testify. Any resulting order may be a temporary order, governed by this section. Notwithstanding the requirements of this section, if all requirements of G.S. 50C-7 have been met, the court may issue a permanent order.

(d) When the court is not in session, the complainant may file for a temporary order before any judge or magistrate designated to grant relief under this Chapter. If the judge or magistrate finds that there is an immediate and present danger of harm to the victim and that the requirements of subsection (a) of this section have been met, the judge or magistrate may issue a temporary civil no-contact order. The chief district court judge may designate for each county at least one judge or magistrate to be reasonably available to issue temporary civil no-contact orders when the court is not in session. (2004-194, s. 1.)

§ 50C-7. Permanent civil no-contact order.

Upon a finding that the victim has suffered an act of unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent. (2004-194, s. 1; 2013-390, s. 3.)

§ 50C-8. Duration; extension of orders.

(a) A temporary civil no-contact order shall be effective for not more than 10 days as the court fixes, unless within the time so fixed the temporary civil no-contact order, for good cause shown, is extended for a like period or a longer period if the respondent consents. The reasons for the extension shall be stated in the temporary order. If a temporary ex parte civil no-contact order:

- (1) Is granted without notice and a motion for a permanent civil no-contact order is made, it shall be set down for hearing within 10 days from the date of the motion.
- (2) Is denied, the trial on the plaintiff's motion for a civil no-contact order shall be set for hearing within 30 days from the date of the denial.

When the motion for a permanent civil no-contact order comes on for hearing, the complainant may proceed with a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve the temporary civil no-contact order. On two days' notice to the complainant or on such shorter notice to that party as the judge may prescribe, the respondent may appear and move its dissolution or modification. In that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(b) A permanent civil no-contact order shall be effective for a fixed period of time not to exceed one year.

(c) Any order may be extended one or more times, as required, provided that the requirements of G.S. 50C-6 or G.S. 50C-7, as appropriate, are satisfied. The court may renew an order, including an order that previously has been renewed, upon a motion by the complainant filed before the expiration of the current order. The court may renew the order for good cause. The commission of an act of unlawful conduct by the respondent after entry of the current order is not required for an order to be renewed. If the motion for extension is uncontested and the complainant seeks no modification of the order, the order may be extended if the complainant's motion or affidavit states that there has been no material change in relevant circumstances since entry of the order and states the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of G.S. 50C-6(d).

(d) Any civil no-contact order expiring on a day the court is not open for business shall expire at the close of the next court business day. (2004-194, s. 1; 2006-264, s. 41; 2013-390, s. 4.)

§ 50C-9. Notice of orders.

(a) The clerk of court shall deliver on the same day that a civil no-contact order is issued, a certified copy of that order to the sheriff.

(b) If the respondent was not present in court when the order was issued, the respondent may be served in the manner provided for service of process in civil proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure. If the summons has not yet been served upon the respondent, it shall be served with the order.

(c) A copy of the order shall be issued promptly to and retained by the police department of the municipality of the victim's residence. If the victim's residence is not located in a municipality or in a municipality with no police department, copies shall be issued promptly to and retained by the sheriff and the county police department, if any, of the county in which the victim's residence is located.

(d) Any order extending, modifying, or revoking any civil no-contact order shall be promptly delivered to the sheriff by the clerk and served in a manner provided for service of process in accordance with the provisions of this section. (2004-194, s. 1; 2012-19, s. 1.)

§ 50C-10. Violation.

A knowing violation of an order entered pursuant to this Chapter is punishable as contempt of court. (2004-194, s. 1.)

§ 50C-11. Remedies not exclusive.

The remedies provided by this Chapter are not exclusive but are additional to other remedies provided under law. (2004-194, s. 1.)

APPENDIX D

UNC System Statute re: Right to Counsel for Students and Organizations

§ 116-40.11. Disciplinary proceedings; right to counsel for students and organizations.

(a) Any student enrolled at a constituent institution who is accused of a violation of the disciplinary or conduct rules of the constituent institution shall have the right to be represented, at the student's expense, by a licensed attorney or nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the constituent institution regarding the alleged violation. However, a student shall not have the right to be represented by a licensed attorney or nonattorney advocate in either of the following circumstances:

(1) If the constituent institution has implemented a "Student Honor Court" which is fully staffed by students to address such violations.

(2) For any allegation of "academic dishonesty" as defined by the constituent institution.

(b) Any student organization officially recognized by a constituent institution that is accused of a violation of the disciplinary or conduct rules of the constituent institution shall have the right to be represented, at the organization's expense, by a licensed attorney or nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the constituent institution regarding the alleged violation. However, a student organization shall not have the right to be represented by a licensed attorney or nonattorney advocate if the constituent institution has implemented a "Student Honor Court" which is fully staffed by students to address such violations.

(c) Nothing in this section shall be construed to create a right to be represented at a disciplinary proceeding at public expense. (2013-413, s. 6(c).)

APPENDIX E

Mutual Agreement

A respondent may choose to waive their right to a disciplinary conference or hearing, to accept responsibility for violations of the Code of Student Conduct, and to accept a sanction determined by a staff member in the Office of Student Conduct.

The following procedures will apply for resolution by mutual agreement:

1. Upon being presented with the information regarding the charge(s), and providing a response to the charge(s), the respondent may accept responsibility and engage in a discussion about any factors that could impact sanctioning.
2. The staff member in the Office of Student Conduct will take into consideration any factors affecting possible sanctions and will determine appropriate sanctions to be presented to the respondent.
3. The respondent will be allowed to ask questions of the hearing officer regarding the suggested sanctions and will be permitted two (2) University business days to consider the agreement. The respondent may be represented by an attorney or other advocate in accordance with [INSERT INSTITUTION-SPECIFIC POLICY/REGULATION], and seek any outside counsel in making a decision to sign the Mutual Agreement.
4. The respondent may sign the Mutual Agreement, indicating an acceptance of responsibility for the allegation(s) and the sanctions. As a condition of entering into the agreement, a respondent waives their right to appeal the decision and sanctions.
5. The respondent may decide against signing the Mutual Agreement and may continue with the resolution of their case through the completion of another appropriate conduct process.