

**SEX<sup>1</sup> DISCRIMINATION AND HARASSMENT POLICY AND TITLE IX SEXUAL  
HARASSMENT<sup>2</sup> GRIEVANCE PROCEDURES**

*Effective: October 1, 2021*

**TABLE OF CONTENTS**

*IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL  
ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING:..... 1*

**SECTION I. SEX DISCRIMINATION AND HARASSMENT POLICY.....2**

1.01 *Notice of Nondiscrimination..... 2*

1.02 *Prohibition on Sex Discrimination and Harassment, Retaliation, and  
Providing False Information or Interfering with a Grievance Process..... 2*

1.03 *Reporting and Period of Limitations..... 3*

1.04 *Applicability of Policy and Grievance Procedures..... 4*

1.05 *Rights of Parents.....  
4*

1.06 *Definitions Applicable to Policy and Grievance Procedures..... 5*

**SECTION II. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES .....9**

A. *APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS.....9*

2A.01 *Applicability of Grievance Procedures..... 9*

2A.02 *Obligation to Respond and Initial Outreach to Complainant..... 9*

2A.03 *Filing of a Formal Complaint..... 9*

2A.04 *Notice of Allegations..... 10*

2A.05 *Dismissal..... 10*

2A.06 *Advisors..... 11*

2A.07 *Amnesty..... 12*

2A.08 *Timing..... 12*

2A.09 *Written Notice of Meetings..... 12*

<sup>1</sup> As used herein, “sex” includes birth/biological sex, gender, gender identify and expression, and sexual orientation.

<sup>2</sup> As defined by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and herein, Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

|                                 |  |    |
|---------------------------------|--|----|
| 2A.10                           | <i>Effect of Corollary Criminal Investigation</i> .....                                | 13 |
| 2A.11                           | <i>Emergency Removal and Administrative Leave</i> .....                                | 13 |
| 2A.12                           | <i>Effect of Respondent Withdrawal During Grievance Process</i> .....                  | 13 |
| 2A.13                           | <i>Privacy and Disclosure</i> .....  | 13 |
| 2A.14                           | <i>Conflicts of Interest, Bias, and Training</i> .....                                 | 14 |
| 2A.15                           | <i>Burden of Proof</i> .....   | 15 |
| 2A.16                           | <i>Presumption of No Responsibility until Determination</i> .....                      | 15 |
| 2A.17                           | <i>Objective Evaluation of All Relevant Evidence; Credibility Determinations</i><br>15 |    |
| 2A.18                           | <i>Academic Freedom</i> .....  | 15 |
| 2A.19                           | <i>Documentation</i> .....   | 15 |
| 2A.20                           | <i>Consolidation of Formal Complaints</i> .....  | 15 |
| 2A.21                           | <i>Individuals with Disabilities</i> .....   | 16 |
| <br>B. THE INVESTIGATION .....  |  | 17 |
| 2B.01                           | <i>Appointment of Investigators and Challenging of the Same</i> .....                  | 17 |
| 2B.02                           | <i>The Investigators' Activities</i> .....   | 17 |
| 2B.03                           | <i>The Investigative Report and Evidence Review</i> .....                              | 17 |
| 2B.04                           | <i>Submission of Evidence; Expert Witnesses</i> .....                                  | 18 |
| 2B.05                           | <i>Treatment Records</i> .....   | 18 |
| <br>C. HEARING AND APPEALS..... |  | 19 |
| 2C.01                           | <i>Respondent's Acknowledgement of Responsibility</i> .....                            | 19 |
| 2C.02                           | <i>The Formal Resolution Process</i> .....   | 19 |
| 2C.03                           | <i>Appointment of the Hearing Panel and Challenging of the Same</i> .....              | 19 |
| 2C.04                           | <i>Notice of the Hearing</i> .....   | 20 |
| 2C.05                           | <i>Pre-Hearing Submissions</i> .....   | 20 |
| 2C.06                           | <i>Failure to Appear</i> .....   | 20 |
| 2C.07                           | <i>Evidentiary Matters</i> .....   | 20 |
| 2C.08                           | <i>Conduct of the Hearing and Questioning of Witnesses and Parties</i> .....           | 21 |
| 2C.09                           | <i>Refusal to Testify or Submit to Cross-Examination</i> .....                         | 21 |
| 2C.10                           | <i>Recording</i> .....   | 21 |
| 2C.11                           | <i>The Determination of the Hearing Panel Regarding Responsibility</i> .....           | 22 |
| 2C.12                           | <i>The Recommendation of the Hearing Panel Regarding Sanctions</i> .....               | 22 |
| 2C.13                           | <i>Review of Sanctions</i> .....   | 22 |
| 2C.14                           | <i>Implementation of Sanctions</i> .....   | 23 |
| 2C.15                           | <i>Final Outcome Letter</i> .....  | 23 |
| 2C.16                           | <i>Appeals</i> .....   | 23 |
| 2C.17                           | <i>Appointment of the Appellate Officer and Challenging of the Same</i> .....          | 23 |
| 2C.18                           | <i>Appellate Review</i> .....  | 24 |
| <br>D. INFORMAL RESOLUTION..... |  | 25 |

|                        |   |     |
|------------------------|---|-----|
| 2D.01                  | Determination of Formal Versus Informal Resolution.....                   | 25  |
| 2D.02                  | Notice of Allegations and Notice of Informal Resolution and Facilitator.. | 25  |
| 2D.03                  | Facilitated Resolution.....   | 25  |
| 2D.04                  | Resolution.....   | 26  |
| 2D.05                  | Written Resolution Agreement.....   | 26  |
| 2D.06                  | Termination of Informal Resolution Process .....                          | 27  |
| 2D.07                  | Confidentiality of Information Shared.....                                | 27  |
| 2D.08                  | Timeframe.....  | 27  |
| 2D.09                  | Appeal.....   | 27  |
| 2D.10                  | Records.....  | 27  |
| <u>EXHIBIT A</u> ..... |   | A-A |

**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING:**

*If you or someone you know may have been a victim of the behaviors listed above or any other type of violence, you are strongly encouraged to seek immediate assistance.*

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A WEEK, FROM THE CATAWBA COLLEGE PUBLIC SAFETY OFFICE (LOCATED IN THE JANN HOUSE AT 126 SUMMIT AVENUE AND AVAILABLE BY PHONE AT 704-637-4000).**

*During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one (1) of the following individuals:*

**Laura Gilland, Title IX Coordinator**

704-637-4114

[lgwimpey@catawba.edu](mailto:lgwimpey@catawba.edu)

**Meredith Cole, Deputy Title IX Coordinator**

704-637-4116

[mncole19@catawba.edu](mailto:mncole19@catawba.edu)

*For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, **see Exhibit A attached to this document.***

## **SECTION I. SEX DISCRIMINATION AND HARASSMENT POLICY**

### **1.01 Notice of Nondiscrimination**

*Catawba College ("Catawba"), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (collectively, "Title IX") and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.*

*Discrimination and harassment are antithetical to the values and standards of the Catawba community and are incompatible with the safe, healthy environment the Catawba community expects and deserves. Catawba will not tolerate discrimination or harassment. Catawba is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. Catawba is also committed fostering a community promoting prompt reporting and fair and timely resolution of those behaviors.*

*Inquiries concerning discrimination or harassment on the basis of sex may be referred to Catawba's Title IX Coordinator. Exhibit A to this document provides the name and contact information for Catawba's Title IX Coordinator.*

*Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to Laura Gilland, Deputy Title IX Coordinator, (for students) or Meredith Cole, Deputy Title IX Coordinator, (for employees). Exhibit A also provides their contact information.*

*Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: OCR@ed.gov.*

### **1.02 Prohibition on Sex Discrimination and Harassment, Retaliation, and Providing False Information or Interfering with a Grievance Process**

*This Policy prohibits discrimination and harassment on the basis of sex. Catawba strongly encourages the prompt reporting of, and is committed to timely and fair resolution of, complaints of sex discrimination and harassment. .*

*Sexual Harassment, as defined by Title IX and herein,<sup>3</sup> is a specific type of sex discrimination/harassment that includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking and that Catawba addresses using its Title IX Sexual Harassment Grievance Procedures, as required by Title IX.*

*This Policy also prohibits Retaliation, as defined by Title IX and herein. Complaints alleging Retaliation may be filed with the Title IX Coordinator and, at the discretion of the Title IX Coordinator, may be addressed under Catawba's Title IX Sexual Harassment Grievance Procedures or other grievance procedures adopted by Catawba.*

*Additionally, any individual who knowingly files a false Formal Complaint or who interferes with a Catawba grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to, the following:*

- 1. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;*
- 2. Removing, destroying, or altering documentation relevant to an investigation; or*
- 3. Providing false or misleading information to Catawba officials involved in the investigation and/or resolution of a Formal Complaint, or encouraging others to do so.*

### **1.03 Reporting and Period of Limitations**

*Any person (whether or not alleged to be the victim) may report sex discrimination or harassment, including Sexual Harassment, in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in Exhibit A, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).*

*Unless otherwise herein designated a confidential resource, Catawba requires all employees and other members of the Catawba community to promptly report concerns regarding suspected or known discrimination/harassment on the basis of sex to the Title IX Coordinator or a Deputy Title IX Coordinator.*

*In addition to the Title IX Coordinator, Catawba designates the following employees as individuals with the authority to institute corrective measures on behalf of Catawba:*

- 1. President of the College;*
- 2. Provost;*
- 3. Director of Human Resources, if different from the Title IX Coordinator;*
- 4. Director of Athletics;*
- 5. Head Athletics Coaches, including the College's Head Athletic Trainer, Head Strength and Conditioning Coach, Head Cheerleading Coach, and Head Dance Team Coach;*
- 6. Dean of Students; and*
- 7. Director of Student Conduct.*

Additionally, Catawba designates the following employees as confidential resources for students:

1. Chaplain;
2. On-Campus Licensed Student Counselors;
3. On-Campus health services providers; and
4. Athletic Training Staff.

Information about sex discrimination or harassment shared with these confidential resources typically will not be reported to other Catawba personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives his/her consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). (Confidential resources may report non-identifying statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.)

Catawba will address allegations of sex discrimination and harassment appropriately no matter the length of time that has passed since the alleged conduct. However, Catawba strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer Catawba students or employees.

#### **1.04 Applicability of Policy and Grievance Procedures**

This Policy applies to any allegation of sex discrimination or harassment made by or against a student or an employee of Catawba or a third party, regardless of sex, sexual orientation, sexual identity, gender expression, or gender identity.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in Catawba's Education Program or Activity (as defined herein).<sup>4</sup>

Catawba will address allegations of other types of sexual harassment (i.e., that do not meet the definition of Title IX Sexual Harassment) by: (1) using other student and employee conduct disciplinary procedures, and/or (2) with Supportive Measures, which are defined and discussed in more detail herein.

#### **1.05 Rights of Parents**

If a student Complainant or Respondent is a minor or has a guardian appointed and his/her parent or guardian has the legal right to act on the student's behalf, then the parent or guardian may file a Formal Complaint on behalf of the student, although the student would be the "Complainant." In such a situation, the parent or guardian may exercise the rights granted to the student under this Policy, including requesting Supportive Measures and

<sup>4</sup> And, at the discretion of the Title Coordinator, to related allegations of Retaliation.

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participating in a grievance process. Similarly, the parent or guardian may accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student's Advisor of choice may be a different person from the parent or guardian. Whether a parent or guardian has the legal right to act on behalf of an individual is determined by state law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians.

Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is permitted to inspect and review a student's education records. However, in circumstances in which FERPA would not grant a party the opportunity to inspect and review evidence in connection with a grievance process, pursuant to Title IX and its implementing regulations, the student has an opportunity to do so, and a parent or guardian who has a legal right to act on behalf of the student has the same opportunity.

Unless otherwise granted by law or regulation, the parent or guardian of a student who is not a minor or who is emancipated shall have no legal right to act on the student's behalf.

## **1.06 Definitions Applicable to Policy and Grievance Procedures**

Capitalized terms used herein are defined as follows.

**“Actual Knowledge”** means notice of Sexual Harassment or allegations of Sexual Harassment to Catawba's Title IX Coordinator or a Deputy Title IX Coordinator.

**“Notice”** as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator.<sup>5</sup>

**“Clery Act”** refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities participating in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

**“Complainant”** means an individual alleged to be the victim of conduct that could constitute Sexual Harassment, irrespective of whether a Formal Complaint has been filed.

**“Consent”** is informed, freely and actively given, mutually understandable words or actions indicating a willingness and readiness to participate in mutually agreed upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous

<sup>5</sup> This standard is not met through imputation of knowledge based solely on vicarious liability or constructive notice. This standard also is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one to whom notice of Sexual Harassment or allegations of Sexual Harassment constitutes Actual Knowledge.

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agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from silence, passivity, or lack of resistance alone, a current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else), a person's attire, the buying of dinner or the spending of money on a date, or Consent previously given (i.e., Consenting to one sexual act does not imply Consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used any of these means to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by the following individuals: minors, even if the other participant did not know the minor's age, mentally disabled persons, if their disability was reasonably knowable to a person who is not mentally disabled, or persons who are incapacitated. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct constituting Sexual Harassment.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of Consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness and readiness to continue and capacity to Consent. Neither party should make assumptions about the other's willingness and readiness to continue.

**"Day"** means a business day, unless otherwise specified.

**"Education Program or Activity"** means all of Catawba's operations and includes (1) locations, events, or circumstances over which Catawba exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred, and (2) any building owned or controlled by a student organization officially recognized by Catawba.

**"Education Record"** has the meaning assigned to it under FERPA.

**"FERPA"** is the Family Educational Rights and Privacy Act, codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

**"Formal Complaint"** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting Catawba investigate the allegation of Sexual Harassment. At the time of filing a Formal

Complaint, a Complainant must be participating in or attempting to participate in Catawba's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information listed for the Title IX Coordinator in Exhibit A. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

**"Incapacitated"** means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

**"Respondent"** means an individual reported to be the perpetrator of conduct alleged to constitute Sexual Harassment.

**"Retaliation"** means (1) any adverse action (including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment or Sexual Harassment but arising out of the same facts or circumstances as a report or complaint of sex discrimination or harassment or a report or Formal Complaint of Sexual Harassment), and (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX, or (b) because the person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX.<sup>6</sup>

**"Sexual Harassment"** means conduct on the basis of sex satisfying one (1) or more of the following:

(1) A Catawba employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct. (commonly referred to quid pro quo harassment);

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive it effectively denies a person equal access to Catawba's Education Program or Activity; or

(3) **"Sexual Assault,"** as defined in 20 U.S.C. § 1092(f)(6)(A)(v): an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

<sup>6</sup> Retaliation does not include (1) the exercise of rights protected under the First Amendment, (2) charging an individual with making a materially false statement in bad faith in the course of a grievance proceeding (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith), or (3) good faith actions lawfully pursued in response to a report of prohibited conduct.

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**“Dating Violence,”** as defined in 34 U.S.C. § 12291(a)(10): violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship;

**“Domestic Violence,”** as defined in 34 U.S.C. § 12291(a)(8): felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or

**“Stalking,”** as defined in 34 U.S.C. § 12291(a)(30): engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others, or (B) suffer substantial emotional distress.

**“Supportive Measures”** are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Catawba’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Catawba’s educational environment or deter Sexual Harassment.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. Catawba will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent maintaining such confidentiality would not impair Catawba’s ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

**SECTION II. TITLE IX SEXUAL  
HARASSMENT GRIEVANCE  
PROCEDURES**

**A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS**

**2A.01 Applicability of Grievance Procedures**

*As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in Catawba's Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). Catawba treats Complainants and Respondents equitably by providing remedies to a Complainant where Catawba makes a determination of responsibility for Sexual Harassment against a Respondent under these Grievance Procedures and also by following these Grievance Procedures before imposing any disciplinary sanctions against a Respondent for Sexual Harassment.*

**2A.02 Obligation to Respond and Initial Outreach to Complainant**

*When Catawba has Actual Knowledge of Sexual Harassment (or allegations thereof) against a person in the United States in its Education Program or Activity, Catawba is obligated to respond and to follow Title IX's specific requirements, which are addressed and incorporated in these Grievance Procedures.*

*Promptly upon receiving allegations of Sexual Harassment against a person in the United States in Catawba's Education Program or Activity, the Title IX Coordinator or his/her designee will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint and to explain to the Complainant the process for filing a Formal Complaint.*

**2A.03 Filing of a Formal Complaint**

*As noted in the Definitions Section above, a Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Catawba investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Catawba's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Exhibit A and the Formal Complaint Form listed in Exhibit B. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission containing the Complainant's physical or digital signature or otherwise indicates the Complainant is the person filing the Formal Complaint.*

*When the Title IX Coordinator believes, with or without the Complainant's desire to participate in a grievance process, a non-deliberately indifferent response to the*

*allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures. Furthermore, initiation of a Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or the Title IX Coordinator is taking a position adverse to the Respondent.*

*Once a Formal Complaint is initiated, an alleged victim will be referred to as a "Complainant," and an alleged perpetrator will be referred to as a "Respondent."*

#### **2A.04 Notice of Allegations**

*Upon receipt of a Formal Complaint, the Title IX Coordinator, or his/her designee, will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time and with at least three (3) days to prepare a response before any initial interview, unless Respondent unilaterally requests to meet sooner with the Title IX Coordinator or his/her designee. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known.*

*The written notice will include a statement the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the grievance process. The written notice also will inform the parties they may have an advisor of their choice, who may be, but is not required to be, an attorney and, at appropriate junctures, the parties and their advisors may review and inspect evidence collected during the investigation. Additionally, the written notice will inform the parties of Catawba's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.*

*If, in the course of an investigation, Catawba decides to investigate allegations of Sexual Harassment involving the Complainant or Respondent not included in the original written notice of allegations, Catawba will provide notice of the additional allegations to the parties whose identities are known.*

#### **2A.05 Dismissal**

*Catawba will investigate the allegations in a Formal Complaint; however, Catawba will dismiss a Formal Complaint or a portion of the allegations therein if (1) the conduct alleged in the Formal Complaint, even if substantiated, would not constitute Sexual Harassment, (2) at the time of filing the Formal Complaint the Complainant was not participating in or attempting to participate in Catawba's Education Program or Activity, (3) the conduct alleged in the Formal Complaint did not occur in Catawba's Education Program or Activity, or (4) the conduct alleged in the Formal Complaint did not occur*

*against an individual in the United States. Such a dismissal may take place at the conclusion of the investigation or at any time prior to the conclusion of the investigation.*

*Additionally, Catawba may dismiss a Formal Complaint or a portion of the allegations therein if (1) the Complainant notifies the Title IX Coordinator in writing the Complainant would like to withdraw the Formal Complaint or any allegations therein, (2) the Respondent is no longer enrolled or employed at Catawba, or (3) despite efforts to do so, Catawba is unable to gather evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.*

*In the event the Title IX Coordinator determines dismissal of a Formal Complaint or a portion of the allegations is appropriate, the Title IX Coordinator will promptly notify the parties in writing of the dismissal and the reasons for it. Dismissal does not impair Catawba's ability to proceed with any appropriate investigatory or disciplinary actions under the Sex Discrimination and Harassment Policy or another Catawba policy or procedure and/or to provide Supportive Measures to the parties.*

*Either party may appeal a decision to dismiss a Formal Complaint or a portion of the allegations on the following grounds by submitting a written appeal to the Title IX Coordinator within three (3) days of the issuance of the written notice of the dismissal. Such appeal shall be based upon and set forth, with particularity, grounds supporting (1) procedural irregularity affecting the decision to dismiss, (2) new evidence not reasonably available at the time of dismissal and which could affect the outcome of the matter, or (3) the Title IX Coordinator or other participant in the dismissal having a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent affecting the decision to dismiss.*

*The Title IX Coordinator will promptly notify the other party of the appeal, and the non-appealing party may submit a response to the appeal within three (3) days of notification of the appeal.*

*The Title IX Coordinator will appoint an appeal officer and will contemporaneously share the appeal officer's name and contact information with the Complainant and the Respondent.*

*Within two (2) days of such appointment, the Complainant, or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias on the part of the appeal officer. The Title IX Coordinator will consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines a material conflict of interest or material bias exists.*

*The Title IX Coordinator will forward the Formal Complaint and any documents upon which the dismissal decision was based, as well as the appeal and any response to the appeal to the appeal officer.*

*Within seven (7) days of receipt of those materials, the appeal officer will determine whether any of the grounds for appeal warrant overturning or modifying the dismissal. The decision by the appeal officer is final.*

## **2A.06 Advisors**

*The Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures by the advisor of their choice, who may be, but is not required to be, an attorney. Catawba will not limit the choice or presence of the advisor for either the Complainant or the Respondent in any meeting or grievance proceeding. Advisors, however, are not allowed to disrupt any such meeting or proceeding or to speak on behalf of the Complainant or the Respondent, with the exception of cross-examination during any hearing conducted under these Grievance Procedures, which must be conducted by an advisor and never personally by the Complainant or the Respondent.*

*Parties must provide the name and contact of their advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their advisor changes. All advisors will be required to assent to Catawba's Expectations for Advisors.*

*If a party does not have an advisor present at the hearing, Catawba will provide, without any charge to the party, an advisor of Catawba's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.*

*Absent accommodation for a disability, the Complainant and the Respondent may not be accompanied by more than one (1) advisor or by other individuals during meetings or proceedings under these Grievance Procedures.*

## **2A.07 Amnesty**

*Catawba considers the reporting and adjudication of Sexual Harassment to be of paramount importance. Catawba does not condone underage drinking or the use of illegal drugs; however, absent unusual circumstance determined in Catawba's sole discretion Catawba extends amnesty to Complainants, Respondents, witnesses, and others involved in a grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a grievance process. Similarly, Catawba may, in its discretion, provide amnesty for other conduct code violations discovered in the course of a grievance process.*

## **2A.08 Timing**

*Catawba will make every reasonable effort to ensure the investigation and resolution of a Formal Complaint occurs in as timely and efficient a manner as possible. The timelines set forth in these Grievance Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension*



and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, natural disasters, pandemic restrictions, and similar occurrences, or the need for language assistance or accommodation of disabilities.

Catawba will strive to complete its investigation and resolution of a Formal Complaint (not including an appeal, if applicable) within 90 days of the receipt of the Formal Complaint, absent extenuating circumstances. Hearings generally will take place within fifteen (15) days of the conclusion of the investigation. Within five (5) days of the conclusion of the hearing, both the Complainant and the Respondent will receive a final outcome letter.

Either party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension including reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and make a determination with regard to the request within three (3) days.

#### **2A.09 Written Notice of Meetings**

Catawba will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

#### **2A.10 Effect of Corollary Criminal Investigation**

Catawba's investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, Catawba will implement any appropriate Supportive Measures and evaluate the need for other actions necessary to assist or protect the Complainant, the Respondent, and/or the Catawba community.

Neither the results of a criminal investigation nor the decision of law enforcement whether to investigate a matter is determinative of whether Sexual Harassment occurred in the eyes of Catawba.

#### **2A.11 Emergency Removal and Administrative Leave**

Catawba may remove a Respondent from Catawba's Education Program or Activity on an emergency basis, provided Catawba first undertakes an individualized safety and risk analysis, determines an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.



Additionally, Catawba may place a non-student employee Respondent on administrative leave during the pendency of Catawba's response to allegations of Sexual Harassment provided it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### **2A.12 Effect of Respondent Withdrawal, Graduation, or Resignation During Grievance Process**

At the discretion of Catawba, a Respondent who withdraws or resigns from Catawba during the pendency of a grievance process under these Grievance Procedures may be barred from Catawba property and Catawba activities and events and may be ineligible for re-enrollment or to be re-hired. If a Respondent completes all requirements to graduate during the grievance process, Catawba may hold the Respondent's diploma until full resolution of the Formal Complaint.

### **2A.13 Privacy and Disclosure**

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sex discrimination or harassment allegations, Catawba will keep private the identity of any individual who has made a report or complaint of sex discrimination or harassment (including any individual who has made a report or filed a Formal Complaint of Sexual Harassment,), any Complainant, any Respondent, and any witness.

Unless the Complainant is a minor or the Complainant requests Catawba do so, Catawba does not report alleged Sexual Harassment to local law enforcement. To the extent required by law, Catawba will share with law enforcement information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment. Additionally, information regarding alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, grievance processes carried out under these Grievance Procedures are not open to the public. Accordingly, documents prepared in connection with such processes, documents, statements, or other information introduced in interviews, meetings, and proceedings, and the final outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

At the written request of a party, Catawba may include a party's advisor on communications and share access to documents, including the investigation report. This access is subject to the advisor's prior acknowledgment and agreement to maintain the confidentiality of the documents. While Catawba strongly encourages parties to

*maintain privacy in connection with a grievance process, Catawba does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or presenting relevant evidence. In addition, Catawba's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.*

#### **2A.14 Conflicts of Interest, Bias, and Training**

*Catawba will ensure any individual designated by Catawba as a Title IX Coordinator, investigator, decision-maker, or facilitator under these Grievance Procedures does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.*

*If an employee designated to participate in the investigation or resolution of a Formal Complaint is the Respondent or a relevant witness, then the Title IX Coordinator will appoint another employee to perform his/her duties. (If the Title IX Coordinator is the Respondent, the President of the College will appoint another employee to perform their duties.)*

*Catawba also ensures Title IX Coordinators, investigators, decision-makers, advisors, and facilitators receive training, as applicable, on the definition of Sexual Harassment, the scope of Catawba's Education Program or Activity, how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.*

*Catawba further ensures decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, and investigators receive training on issues of relevance to create an investigative report fairly summarizing relevant evidence. Additionally, Catawba ensures decision-makers receive training on any technology to be used at live hearings.*

*Materials used to train Title IX Coordinators, investigators, decision-makers, advisors, and facilitators will not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.*

#### **2A.15 Burden of Proof**

*At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Catawba, not on either of the parties.*

## **2A.16 Presumption of No Responsibility until Determination**

*Respondents are presumed to be not responsible for alleged Sexual Harassment until Catawba makes a determination regarding responsibility pursuant to these Grievance Procedures.*

## **2A.17 Objective Evaluation of All Relevant Evidence; Credibility Determinations**

*The investigators and decision-makers under these Grievance Procedures will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.*

## **2A.18 Academic Freedom**

*Catawba affirms its commitment to academic freedom but notes academic freedom does not allow any form of Sexual Harassment. Catawba recognizes an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute Sexual Harassment. Academic inquiry may involve teaching, research, and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific Catawba program or activity. When investigating complaints a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Provost, or his/her designee, with respect to contemporary academic practices and standards.*

## **2A.19 Documentation**

*Catawba will retain documentation (including but not limited to any Formal Complaint, notifications, recording or transcripts of interviews, investigative report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of hearings, and written communication with the Complainant and Respondent), for no less than seven (7) years.*

## **2A.20 Consolidation of Formal Complaints**

*Catawba may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one (1) Respondent, by more than one (1) Complainant against one (1) or more Respondents, or by one (1) party against the other party where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one (1) Complainant or more than one (1) Respondent, references in these Grievance Procedures to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.*

## **2A.21      *Individuals with Disabilities***

*Catawba will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in Catawba's grievance processes. Student requests for accommodation must be made to Daryl Bruner, Director of the Catawba to Career Success Center, at [drbruner16@catawba.edu](mailto:drbruner16@catawba.edu). Employee requests for accommodation must be made to Drew H. Davis, Director of Human Resources, at [dhdavis18@catawba.edu](mailto:dhdavis18@catawba.edu) or his designee.*

## **B. THE INVESTIGATION**

### **2B.01 Appointment of Investigators and Challenging of the Same**

*Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint one (1) or more investigators. These investigators may be Catawba employees, non-employees, or a combination of employees and non-employees. The Title IX Coordinator will contemporaneously share their names and contact information with the Complainant and Respondent and forward a copy of the Formal Complaint to the investigators.*

*Within two (2) days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigators. The Title IX Coordinator will consider such statements and will promptly assign different investigators if the Title IX Coordinator determines a material conflict of interest or material bias exists.*

### **2B.02 The Investigators' Activities**

*Upon receipt of the Formal Complaint, the investigators will promptly begin their investigation, taking such steps as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable), summarizing such interviews in writing, collecting and reviewing relevant documents, visiting, inspecting, and taking or reviewing photographs of relevant sites, and collecting and reviewing other relevant evidence.*

### **2B.03 The Investigative Report and Evidence Review**

*The investigators will prepare a written investigative report fairly summarizing relevant evidence and including items such as the Formal Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, and summaries or copies of relevant electronic records.*

*Prior to the completion of the investigative report, the investigators will send to each party and the party's advisor, if identified by each party, an electronic or hard copy of any evidence obtained during the investigation directly related to the allegations raised in the Formal Complaint, including (1) any evidence upon which Catawba does not intend to rely in reaching a determination regarding responsibility, and (2) both inculpatory and exculpatory evidence.*

*The parties have ten (10) days from the time the evidence is provided to submit to the investigators a written response to the evidence. In the response, the parties may address the relevancy of any evidence the parties believe should be included in or excluded from the investigative report and may also address any further investigation activities or questions they believe are necessary. If a party wishes to submit additional evidence at*

*this stage, they should explain how the evidence is relevant and why it was not previously provided.*

*The investigators will review and consider the parties' written submissions and may conduct additional investigative activities as appropriate prior to finalizing the investigative report. The need for additional investigative activities may result in a delay or extension to the timelines set forth in these Grievance Procedures.*

*At least ten (10) days prior to the hearing, the investigators will send an electronic or hard copy of the investigative report to each party and the party's advisor, if any. Any response a party wishes to make to the investigative report may be included in the party's pre-hearing statement, which is discussed more below in Section 2C.05.*

*Due to the sensitive nature of the investigative report, neither the parties nor their advisors may copy, publish, photograph, print, image, record, or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and/or be barred from further participation in the current and/or future grievance process.*

*Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.*

#### **2B.04 Submission of Evidence; Expert Witnesses**

*Any evidence the parties wish for the hearing panel to consider should be presented to the investigators as early as possible during the investigation process. Evidence not submitted in a timely manner and prior to finalization of the investigative report may be excluded from the hearing at the discretion of the hearing panel.*

*Similarly, all relevant witnesses should be identified to the investigators as early as possible during the investigation. The hearing panel generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation. However, in their discretion and for good cause, the hearing panel may choose to consider information from witnesses who were not interviewed during the investigation.*

*Any party who wishes to present testimony from an expert witness should identify the witness by providing the witness's name, contact information, and a summary of (1) the witness's qualifications to offer expert testimony, and (2) any opinions the witness expects to offer related to the allegations or evidence. Any evidence upon which the witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The parties must make any expert witnesses available to be interviewed by investigators and to testify at the hearing. If an*

*expert witness is not available to provide live testimony at the hearing, the hearing panel must disregard any information submitted by the expert.*

**2B.05 Treatment Records**

*Catawba will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent.*

## **C. HEARING AND APPEALS**

### **2C.01 Respondent's Acknowledgement of Responsibility**

*If, at any time prior to a responsibility determination by the hearing panel, a Respondent accepts responsibility for the allegations, and if the Title IX Coordinator determines the matter is appropriate for informal resolution, the Title IX Coordinator will ask both parties if they wish to suspend the formal resolution process and engage in an informal resolution process to resolve the allegations without a hearing.*

*If both parties wish to engage in the informal resolution process, the Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree in writing to such proposed sanctions(s), then the Formal Complaint will be resolved without a hearing and without any further rights of appeal by any party.*

*If either the Complainant or the Respondent objects to such proposed sanction(s), then the hearing panel will determine sanctions, which are subject to appeal as set forth below.*

### **2C.02 The Formal Resolution Process**

*Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to Section 2.C.01 or 2.D.01, following the investigation the appointed hearing panel will conduct a hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing panel deems relevant. During the hearing, the hearing panel and the parties may also question the investigators as necessary to clarify information provided in the investigative report.*

### **2C.03 Appointment of the Hearing Panel and Challenging of the Same**

*The Title IX Coordinator will appoint a hearing panel, who will administer the hearing, serve as the decision-makers regarding responsibility, and (as applicable) recommend sanctions. The hearing panel may consist of one (1) to three (3) persons of any combination of Catawba employees and/or non-employees. The Title IX Coordinator will contemporaneously share the names and contact information of the hearing panel members with the Complainant and the Respondent. The Title IX Coordinator will provide to the hearing panel the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.*

*Within two (2) days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of any member of the hearing panel. The Title IX Coordinator will carefully consider such statements and will promptly assign a different hearing panel member if the Title IX Coordinator determines a material conflict of interest or material bias exists.*



*The members of the hearing panel shall designate one (1) of its members to serve as the chair of the hearing panel for purposes of the hearing process. The chair of the hearing panel shall be responsible for making all required notices on behalf of the hearing panel and will act as the lead panel member during any hearing pursuant to this grievance process.*

#### **2C.04 Notice of the Hearing**

*Promptly after the appointment of the hearing panel and no less than five (5) days prior to the hearing, the hearing panel will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing. Any modifications to the hearing date, time, or location will be provided in writing to both parties prior to the date of the hearing.*

#### **2C.05 Pre-Hearing Submissions**

*Each party may submit a written statement to the hearing panel including any response the party wishes to make to the investigative report. Each party's pre-hearing statement must be submitted at least five (5) days prior to the hearing. The hearing panel will share the statement with the other party, who may submit a response within two (2) days.*

#### **2C.06 Failure to Appear**

*If any party, advisor, or witness fails to appear at the hearing after having been provided proper notice of the hearing as set forth above, then absent extenuating circumstances the hearing panel will proceed with the hearing and issuance of their responsibility determination and, as applicable, sanction recommendation. Catawba will provide an advisor to any party who attends the hearing unaccompanied.*

#### **2C.07 Evidentiary Matters**

*A Title IX hearing does not take place within a court of law and is not bound by formal rules of evidence.*

*Evidence of and questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions: (1) if the questions and evidence about the Complainant's prior sexual behavior are offered to prove someone other than the Respondent committed the conduct alleged by the Complainant, or (2) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.*

*Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally investigated or found responsible for such conduct) may be permitted to show the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing panel, provided the Respondent has not been found "not responsible" by Catawba in a proceeding related to such conduct.*

*Catawba will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent. Questions and/or evidence constituting or seeking disclosure of information protected under a legally recognized privilege are not permitted, unless the person holding the privilege has waived the privilege in writing.*

*Catawba will make the evidence the investigators provided to the parties for their review and inspection prior to finalization of the investigative report available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.*

## **2C.08 Conduct of the Hearing and Questioning of Witnesses and Parties**

*The hearing will be conducted with parties in separate rooms, using technology to ensure each party can see and hear any party or witness answering questions. At the discretion of the hearing panel, the hearing may be conducted partially or entirely remotely, with any or all participants participating virtually.*

*The Complainant and the Respondent will have equal opportunity to address the hearing panel, if desired, and both the hearing panel and the parties' advisors will have the opportunity to question the other party and any witnesses, including investigators and expert witnesses. The hearing panel will first ask any questions of each party and each witness through direct examination. After the hearing panel has completed direct examination, the advisor for each party will have an opportunity to conduct a cross-examination of the other party and/or the witnesses. Any questions that a party has for a witness or the other party must be posed by the party's advisor. A party's advisor will not have the opportunity to question the party for whom they serve as advisor.*

*Before a party or witness answers a cross-examination question, the hearing panel will determine whether the question is relevant and allowed under these Grievance Procedures. For example, the hearing panel may exclude as not relevant duplicative questions or questions posed solely to harass a witness or the other party. The hearing panel will explain any decision to exclude a question.*

*If a party does not have an advisor present at the hearing, Catawba will provide an advisor, at no cost to the party, to conduct cross-examination on behalf of that party.*

*Members of the Catawba community are expected to provide truthful testimony, and any member of the Catawba community who knowingly provides false information during this process is subject to discipline in accordance with Catawba policies.*

## **2C.09 Unavailability or Refusal to Testify or Submit to Cross-Examination**

*The Respondent and/or the Complainant may choose not to testify at the hearing; however, this choice will not preclude the hearing panel from making their responsibility determination and, as applicable, sanction recommendation regarding the Formal Complaint. If deemed reliable and relevant by the hearing panel, and not otherwise subject to exclusion pursuant*

to this Policy, the hearing panel may consider the statements of persons who were not present at the hearing, or persons who were present at the hearing but who were not subject to cross-examination. This includes, but is not limited to, opinions and statements in police reports or other official reports, medical records, court records and filings, investigation notes of interviews, emails, written statements, affidavits, text messages, and social media postings. The hearing panel will not draw an inference regarding responsibility or sanctions based solely on a party's or witness' absence from the hearing or refusal to testify or submit to cross-examination.

#### **2C.10 Recording**

Catawba will record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of Catawba. The parties and the appeal officer may use the recording as part of the appeal process. Catawba will take reasonable care to ensure a quality recording; however, technological problems resulting in no recording or in an inaudible recording will not affect the validity of the outcome of a hearing.

#### **2C.11 The Determination of the Hearing Panel Regarding Responsibility**

Following the hearing, the hearing panel will determine whether the evidence establishes it is more likely than not<sup>7</sup> the Respondent committed Sexual Harassment. The hearing panel will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for the decision. If the Respondent is found "Responsible," the hearing panel will specify the specific type(s) of Sexual Harassment for which the Respondent is found "Responsible." When feasible, the hearing panel will orally communicate the finding of "Responsible" or "Not Responsible" to the parties on the day of or day following the hearing. Additional information regarding the decision, including the rationale and sanctions (if applicable) will be communicated in the final outcome letter as described below.

#### **2C.12 The Recommendation of the Hearing Panel Regarding Sanctions**

If the hearing panel determines the Respondent is "Responsible," they will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for students may include, but are not limited to, expulsion or suspension from Catawba, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree

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<sup>7</sup> In other words, the standard of proof will be the preponderance of the evidence standard.

*Other potential sanctions for Respondents may include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions, including but not limited to community service, reflection paper(s), and/or fines, as deemed appropriate by the hearing panel.*

*In recommending sanctions, the hearing panel will consider whether a sanction will ring an end to, prevent a recurrence of, and remedy the effects of the Sexual Harassment. The hearing panel also will consider the impact of separating a student from their education. The appropriate sanctions for Sexual Assault generally will include at a minimum a period of separation from Catawba.*

### **2C.13      *Review of Sanctions***

*The hearing panel will forward their sanctions recommendation to the Title IX Coordinator, who will consult with the appropriate Catawba official(s) as necessary in the sole discretion of the Title IX Coordinator. These individuals will consider the recommendation in the context of the sanctioning guidelines, the Respondent's disciplinary history, Catawba's handling of similar cases, and other relevant factors.*

### **2C.14      *Implementation of Sanctions***

*Sanctions generally are effective immediately upon issuance of the final outcome letter described below. However, if necessary to protect the welfare of the Complainant, Respondent, or Catawba community, the hearing panel may recommend and/or the Title IX Coordinator may determine any sanctions are effective at any time after the conclusion of the hearing and continue in effect until the issuance of the final outcome letter.*

### **2C.15      *Final Outcome Letter***

*Within five (5) days after the hearing, the hearing panel will issue a final outcome letter through the Title IX Coordinator to the Respondent and Complainant simultaneously.*

*The final outcome letter will (1) name the Respondent, (2) identify the allegations potentially constituting Sexual Harassment, (3) describe procedural steps taken from the filing of the Formal Complainant through the determination, (4) provide findings of fact in support of the hearing panel's determination, and (5) provide a statement of rationale for the result as to each allegation, including the responsibility determination and any sanctions.*

### **2C.16      *Appeals***

*The Complainant or the Respondent may appeal the decision of the hearing panel regarding responsibility and/or the sanction(s) imposed on the Respondent.*

*The following are the only permissible grounds for an appeal of the hearing panel's responsibility determination: (1) procedural irregularity affecting the outcome, (2) new evidence not reasonably available at the time of the determination and could affect the outcome, and (3) the Title IX Coordinator, an investigator, or the hearing panel member had a conflict of interest or bias affecting the outcome.*

*Sanctions may only be appealed on the ground the severity is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.*

*Appeals must be submitted in writing to the Title IX Coordinator within five (5) days from the date of the final outcome letter. The Title IX Coordinator will promptly inform the other party of the filing of the appeal. The other party will have three (3) days from such notification to submit a written response to the appeal.*

### **2C.17 Appointment of the Appeal Officer and Challenging of the Same**

*Upon receipt of an appeal, the Title IX Coordinator will consult with the appropriate Catawba official(s) as necessary in the sole discretion of the Title IX Coordinator to appoint an appeal officer.*

*Within two (2) days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning the appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines a material conflict of interest or material bias exists.*

### **2C.18 Appellate Review**

*The Title IX Coordinator will share the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing panel, the hearing panel's written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.*

*Within ten (10) days of the receipt of the appeal, the appeal officer will determine (a) the decision of the hearing panel should stand, or (b) the decision of the hearing panel should be overturned and will issue a written explanation of the result and the rationale behind it.*

*In the event the appeal officer determines the decision of the hearing panel should be overturned, the appeal officer will specify, after consultation with the Title IX Coordinator and other Catawba administrators as necessary, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may include another hearing before the same hearing panel or a different panel).*

## D. INFORMAL RESOLUTION

### **2D.01 Determination of Formal Versus Informal Resolution**

*At any time before the issuance of the hearing panel's responsibility determination, the parties may elect to resolve the Formal Complaint through an informal resolution process, provided (1) the parties both voluntarily consent in writing to such resolution, (2) both parties are students or employees of Catawba, and (3) the Title IX Coordinator determines informal resolution is an appropriate mechanism for resolving the specific Formal Complaint. Otherwise, a Formal Complaint not otherwise dismissed will proceed to a hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.*

*The parties may not select informal resolution for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.*

*Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Title IX Coordinator, in his/her sole discretion, may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.*

### **2D.02 Notice of Allegations and Notice of Informal Resolution and Facilitator**

*The Title IX Coordinator will provide the parties a written notice disclosing the Formal Complaint's allegations and the requirements of the informal resolution process, including any circumstances under which Catawba would preclude the parties from resuming a Formal Complaint arising from the same allegations.*

*When the Formal Complaint is to be resolved according to the informal resolution process, the Title IX Coordinator will designate a trained individual to serve as the facilitator. The Title IX Coordinator will contemporaneously share the name of the facilitator with the Complainant and the Respondent.*

*Within two (2) days of such notification, the Complainant or Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that facilitator. The Title IX Coordinator will carefully consider such statements and promptly assign a different facilitator if the Title IX Coordinator determines a material conflict of interest or material bias exists.*

### **2D.03 Facilitated Resolution**

*The facilitator will meet separately with each party to review the informal resolution process and the allegations in the Formal Complaint and to identify the outcome each party seeks from the informal resolution process. If the facilitator determines it would be*

*productive for both parties to attend a resolution meeting, the facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of that meeting. At the request of either party or at the discretion of the facilitator, the meeting may occur with the parties in different locations or meetings with parties may take place on different dates.*

*Catawba expects both the Complainant and the Respondent to participate in the informal resolution process. If either party fails to participate, the Title IX Coordinator may direct that the Formal Complaint be resolved using a full investigation and hearing or may reschedule the meeting.*

*During informal resolution, the parties may: (1) engage each another in the presence of, and/or facilitated by, the facilitator, (2) communicate their feelings and perceptions regarding the incident and the impact of the incident, either by communicating directly with each other or by communicating indirectly through the facilitator, (3) relay their wishes and expectations regarding the future, and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.*

*Participation in the informal resolution process is voluntary, and either party, the facilitator, or the Title IX Coordinator may terminate the process at any time.*

#### **2D.04 Resolution**

*The facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire Catawba community), the facilitator will reduce the parties' agreement to writing. This will conclude the process and close the Formal Complaint.*

#### **2D.05 Written Resolution Agreement**

*To be effective, the parties, facilitator, and Title IX Coordinator must sign a written document setting forth any agreement reached during the informal resolution process. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.*

*Measures the parties agree to in the informal resolution process may include but are not limited to:*

- 1) Alcohol education classes for either party or both parties;*
- 2) Completion of online sexual harassment training;*
- 3) Completion of an intervention program;*
- 4) Regular meetings with an appropriate individual, unit, or resource;*
- 5) Permanent or temporary no contact order;*



- 6) *Restrictions on participation in certain events, activities, organizations, programs, or classes;*
- 7) *Change in residential assignment or restrictions on access to certain residence halls or campus buildings;*
- 8) *Reflection paper or written apology;*
- 9) *Counseling sessions; or*
- 10) *The Respondent's completion of an educational or behavioral plan.*

#### **2D.06 Termination of Informal Resolution Process**

*At any time prior to completing a written resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If either party terminates the informal resolution process or Catawba determines the informal resolution process is no longer appropriate, the formal resolution process outlined above will promptly resume.*

#### **2D.07 Confidentiality of Information Shared**

*Any information the parties share during the informal resolution process may not be used in any other investigation or proceeding at Catawba.*

#### **2D.08 Timeframe**

*Absent extenuating circumstances or other good cause, the parties are to complete the informal resolution process within twenty (20) days of the parties' agreement to participate in the informal resolution process.*

#### **2D.09 Appeal**

*A resolution reached pursuant to the informal resolution process is final and not subject to appeal.*

#### **2D.10 Records**

*A resolution reached through the informal resolution process will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter. The Title IX Coordinator will retain a record of the written resolution agreement for no less than seven (7) years.*



## **EXHIBIT A**

### **Suggested Actions for People Who Have Experienced Sexual Harassment**

*If you have experienced Sexual Harassment, Catawba's first priority is to help you take steps to address your safety, medical needs, and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or Catawba complaint.*

#### **1. Ensure Your Physical Safety.**

*You may seek help from **local law enforcement agencies** or by contacting the Catawba Public Safety. The Catawba Public Safety can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Public Safety Officers are on duty 24 hours a day, seven (7) days a week.*

#### **2. Seek Medical Assistance and Treatment.**

*Off-campus resources include Novant Rowan Medical Center, the Family Crisis Counsel, and the NC Coalition Against Sexual Assault. It is crucial you obtain medical attention as soon as possible after a sexual assault, for example, to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).*

*Employees at the Proctor Health Center can help you obtain transportation to a local hospital and can help you contact a support person, such as a family member, a friend, or a roommate.*

*If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 120 hours.*

*Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date.*

*It is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.*

#### **3. Obtain Emotional Support**

*The Catawba Student Counseling Center, located in the Student Affairs suite in the Cannon Student Center, can help students sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' records, and will not be reported to other Catawba personnel.*

*Employees may contact the Employee Assistance Program to obtain emotional support (available at: Insert contact information). Employees can also speak confidentially with an ombudsperson (Insert name and contact information).*

#### **4. Obtain Information/Report Misconduct**

*You are encouraged to report incidents of sexual assault to Catawba's Title IX Coordinator (even if you have filed a report directly with law enforcement). The Title IX Coordinator can help you access resources and can provide you with support and information, including information on Catawba's procedures for investigating and addressing instances of sexual assault.*

**Important Contact Information**  
**Resources for Parties**

**Title IX Coordinator**

Laura Gilland  
[lgwimpey@catawba.edu](mailto:lgwimpey@catawba.edu)  
704-637-4114

**Deputy Title IX Coordinator**

Meredith Cole  
[dncole19@catawba.edu](mailto:dncole19@catawba.edu)  
704-637-4116

**Catawba Public Safety**

Public Safety Officers are available 24/7.  
704-637-4000

**Student Health Center**

Teresa Bivins  
[tjbivins17@catawba.edu](mailto:tjbivins17@catawba.edu)  
704-637-4404

**Chaplain's Office**

Dr. Kenneth W. Clapp  
[kclass@catawba.edu](mailto:kclass@catawba.edu)  
704-637-4466

**Athletic Training Staff**

Brandon Auton, Head Trainer  
[bsauton@catawba.edu](mailto:bsauton@catawba.edu)  
704.637.4267

Brianne Morith  
[bmorith18@catawba.edu](mailto:bmorith18@catawba.edu)  
704.637.4198

Lupana Morales  
[lmorales15@catawba.edu](mailto:lmorales15@catawba.edu)  
704.637.4267

**Office of Human Resources**

Drew H. Davis  
[Dhdavis18@catawba.edu](mailto:Dhdavis18@catawba.edu)

**Student Counseling Services**

704.637.4410

Debbie Insley  
[dminsley14@catawba.edu](mailto:dminsley14@catawba.edu)  
704.637.4734

Avery Barber  
[albarber@catawba.edu](mailto:albarber@catawba.edu)  
704.637.4259

Lauren Stephenson  
[lstephen18@catawba.edu](mailto:lstephen18@catawba.edu)  
704.637.4207

**Community Resources**

Family Crisis Council  
Local, 24-hour hotline  
704.636.4718  
[www.familycrisiscouncil.org](http://www.familycrisiscouncil.org)

NC Coalition Against Sexual Assault  
919.871.1015  
[www.nccasa.org](http://www.nccasa.org)

National Sexual Assault Hotline  
800.656.4673  
[www.rainn.org](http://www.rainn.org)