Sexual Misconduct Policy

High Point University expects all members of its community to act in a respectful and responsible manner towards one another. Acts of sexual misconduct include: sexual harassment (stalking, cyberstalking or relationship violence) non-consensual contact, non-consensual intercourse (sexual assault), exploitation and other gender-based offenses are classified as crimes of violence that are subject to persecution through both university and local law enforcement authorities. This policy covers complaints of alleged sexual misconduct. If you or someone you know may be the victim of sexual misconduct by another member of the University, you may report such misconduct or file a complaint with the University’s Title IX Coordinators:

- **Students:**
  - Gail Tuttle, Vice President of Student Life, 338 Slane Center, High Point University, 833 Montlieu Ave, High Point, NC 27262, 336-841-9231, gtuttle@highpoint.edu
  - Derek Stafford, Security Manager of Investigations, 104 N. College Admin Building, High Point University, 1911 N. Centennial St, High Point, NC 27262, 336-841-9433, dstaffor@highpoint.edu

- **Athletics:**
  - April Wines, Assistant Director for Athletics, 205 Steele Center, High Point University, 833 Montlieu Ave, High Point, NC, 27262, 336-841-4645, awines@highpoint.edu
  - Derek Stafford, Security Manager of Investigations, 104 N. College Admin Building, High Point University, 1911 N. Centennial St, High Point, NC 27262, 336-841-9433, dstaffor@highpoint.edu

- **Faculty/Staff:**
  - Kathy Smith, Director of Human Resources, 239 Roberts Hall, High Point University, 833 Montlieu Ave, High Point, NC 27262, 336-888-3691, kssmith@highpoint.edu
  - Derek Stafford, Security Manager of Investigations, 104 N. College Admin Building, High Point University, 1911 N. Centennial St, High Point, NC 27262, 336-841-9433, dstaffor@highpoint.edu

Sexual misconduct can be committed by men or women and can occur between people of the same or opposite sex. It is the responsibility of each individual in the University community to become educated about such acts, our policies, reporting procedures and potential sanctions. Sexual misconduct is defined as any act of a sexual nature perpetuated against an individual without consent or when an individual is unable to freely give consent.

1. **Sexual assault (Non-consensual intercourse)** – attempted or completed intercourse or penetration (anal, oral or vaginal), with any body part or any object, by a man or a woman upon a man or a woman, without consent.

2. **Non-consensual contact** – sexual contact with any body part or any object, by a man or a woman upon a man or a woman, without consent. Sexual touching includes but is not
limited to any contact with the breasts, buttocks, groin, genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts, when such touching would be reasonably and objectively offensive.

3. **Sexual exploitation** – is defined as taking nonconsensual, unjust or abusive sexual advantage of another, for one’s own advantage or benefit; or to benefit anyone other than the individual being exploited. Sexual exploitation encompasses a wide range of behaviors which may include but are not limited to:
   a. Inducing incapacitation with the intent to rape or sexually assault another student;
   b. Non-consensual electronic recording, photographing, or transmitting intimate or sexual knowledge, sounds or images;
   c. Allowing others to observe a personal act of consensual sex without all parties knowledge or consent;
   d. Engaging in voyeurism;
   e. Knowingly transmitting a sexually transmitted disease, including HIV, to another student;

4. **Sexual Intimidation** includes but is not limited to:
   a. Threatening another person that you will commit a sexual act against them;
   b. Stalking and/or cyber-stalking
   c. Engaging in indecent exposure

5. **Sexual violence** – is defined as any form of unwanted sexual contact obtained without consent and/or obtained through use of force, threat of force, intimidation, or coercion by any person(s). Any violation of the above mentioned policies could constitute sexual violence. Premeditation is not required to be found responsible of this policy.

**Sexual harassment** is a form of discrimination that is unwelcome and is directed at a particular individual or group based on that individual or groups sex or gender stereotypes. Sexual harassment includes but is not limited to verbal, written or physical behavior of a sexual nature, when the behavior is unwelcome and meets either of the following criteria:

1. **Quid Pro Quo** - Consent to the behavior is reasonably believed to carry consequences or benefits for the student’s education, employment, on campus living or participation in a university activity. Examples of this are the following
   a. Sexual behavior for some educational or employment related benefit
   b. Making a real or perceived threat that rejecting the behavior will carry a negative consequence on the student’s experience at the University

2. The behavior is interfering with the student’s work or education performance by creating a hostile environment. A hostile environment is defined by the frequency, nature and severity of the conduct and the effect that the conduct had on the individual or groups mental or emotional state. Examples of this are the following:
a. Persistent unwelcome efforts to develop a sexual or romantic relationship;
b. Unwelcome sexual advances or requests for sexual favors;
c. Unwelcome comments about the individuals body or personal sexual activities;
d. Repeated and unwelcome sexually oriented teasing, flirting or joking;

**Consent** – Consent, as defined by High Point University is informed, freely and actively given and mutually understood with either clear words and/or actions that both parties involved are willing to participate in the sexual activity. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Being intoxicated or under the influence does not remove the responsibility of obtaining and/or giving consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent. Other factors regarding consent include:

- Consent is mutually understandable when a reasonable person would consider the words and or actions of the parties to have created a situation where all parties understand the agreement.
- If a party is non-verbal or passive, that is not consent, nor can an individual use that as a basis of consent.
- Consent may not be assumed if the individuals involved are currently or have a previous relationship where consent existed.
- Clothing or behaviors do not imply consent.
- Consent “expires” and consent to do one sexual act may not be consent to do other – consent may be withdrawn.

**Reporting or filing a complaint about a violation of the sexual misconduct policy**

Complainants of violations of any part of High Point University’s sexual misconduct policy may be reported at any time. There is no statute of limitations on when a report can be made; however, complainants are encouraged to make reports promptly in order to best preserve any evidence for a potential disciplinary or legal proceeding. Complainants are strongly encouraged to report incidents of sexual violence to the local police department by calling 911. For incidents that occur on High Point University's campus contact HPU Security Department by calling 336-841-9111, for assistance with on campus procedures as well as providing any assistance with local law enforcement.

**VOLUNTARY CONFIDENTIAL REPORTING:** If you are the victim of a crime and do not want to pursue action within the University system or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Chief of Security, Vice President of Student Life, or designee can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the University can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to
potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

**Confidentiality in reporting a violation of the sexual misconduct policy**

High Point University will take all precautions possible to preserve the confidentiality of both the complainant and the respondent during an investigation of a reported violation of the sexual misconduct policy. However, students must be aware that the University is required by federal law to inform the community of the occurrence for the protection of all members of the community if the violation is found to meet the conditions of imminent harm to the community. Also, the University cannot control confidentiality of other students who may be involved as witnesses.

Students need to understand that due to Title IX compliance, University officials will do everything they can to meet the wishes of the student regarding their request for confidentiality or not moving pursuing a hearing. However, the Title IX Coordinator is required to move forward with an investigation and take reasonable action in response to the complaint, no matter how limited those steps may be. Title IX requires the University to evaluate the request of the complainant next to the University’s concern for the well being, safety and non-discriminatory environment that they strive for. Even if the University is unable to take disciplinary action against the respondent the University will take any prompt and effective steps to prevent the sexual misconduct from recurring.

**Retaliation in reporting a violation of the sexual misconduct policy**

It is a violation of University policy to retaliate against any person making a complaint or cooperating with the investigation of a complaint of any form of Sexual Misconduct. “Retaliation” can include but is not limited to intimidation, threats, harassment, and other adverse action threatened or taken against any complainant or third party. If retaliation of any form occurs it should be reported to the Title IX Coordinator and those reports may result in disciplinary action separate from those of Sexual Misconduct violations against the retaliatory violators.

**The process of a violation of the sexual misconduct policy**

Once the initial report is made there are options for the complainant. Those options are the following:

1. Wishes to remain confidential and does not want a hearing/resolution:
   
   As stated in the section above about confidentiality, the Title IX Coordinator and University Officials will do their best to respect that request, however, due to Title IX the University must do at least a preliminary investigation and take prompt and reasonable steps given the complainants information. The University can never ensure complete confidentiality.

2. Interest to move forward with a hearing/resolution:
If the complainant is interested in moving forward with a hearing/resolution they will give the name of the accused student to the investigator for them to move forward with an initial meeting with that individual to let them know what they are being accused of and give them an understanding of the policies and accusations. If the respondent acknowledges the actions then there may be an informal resolution handled by the Vice President for Student Life, Dean of Students and/or Director of Judicial Affairs. If the respondent does not acknowledge the actions, a formal hearing will take place as a priority hearing within approximately 10 days of the complainant’s decision to move forward with a formal hearing.

A formal hearing consists of a panel of student and faculty justices that are members of the Student Judicial Board. The hearing panel will be comprised of six student justices and two faculty justices, chaired by the Chief Justice, which is an elected member of the Student Government Association. All members of the Student Judicial Board receive annual training regarding the Sexual Misconduct Policy.

When preparing for the formal hearing equal access and resources are given to both the complainant and respondent. They will each be notified of the hearing in a formal letter outlining the date, time and location of the hearing as well as the policy that was violated. If either party does not appear, as stated in the notification letter the Chief Justice in conjunction with University officials may determine to postpone the proceedings or direct that the hearing continue and make a determination based on the evidence available.

For violations of sexual misconduct both the complainant and respondent may have advisors present to support them during this process. The advisor may not be an attorney. Advisors may not ask direct questions to any party at the hearing but may consult with the student he or she is assisting. If an advisor’s presence infringes on the process an advisor may be asked to leave.

For violations of the sexual misconduct policy the Department of Education’s Office of Civil Rights has interpreted Title IX to require schools to evaluate evidence and witness testimony under a “preponderance of the evidence.” This means that the information needs to show that it is “more likely than not” that a violation of the policy occurred.

Sanctioning – If found responsible for a violation of the High Point University Sexual Misconduct Policy sanctions may include fines, disciplinary probation, mandated counseling, reassignment or removal of university housing and/or suspension or expulsion from the University. The adjudicating body may include additional sanctions dependent on the nature of the violation.

Both complainant and respondent are informed of the outcome of the hearing at the conclusion of the hearing. Both parties may also appeal the outcome of the formal hearing to the Executive Committee by meeting with Dr. Don Scarborough at dscarbor@highpoint.edu within 5 business days of the hearing. After that initial meeting,
the appealing party will have 7 business days to decide if he/she is definitely moving forward with that process. If appealed, no resolutions by the original hearing panel go into effect until the outcome of the appeal to the Executive Committee.

In all cases, no matter which choice the complainant makes the University representative handling the case will take reasonable and practical steps to protect the complainant and respondent equally as outlined by Title IX. These steps could vary depending on the complaint from a “no contact” between the individuals to further steps such as separating them in housing, academic, and employment situations. Violations of these directives and protective actions may lead to additional disciplinary actions.