



## 2018 Campus Security Report

### Mission

Mayland Community College is the educational gateway to opportunity in Mitchell, Avery, and Yancey counties.

### Vision

Mayland will EMBRACE the communities and citizens of Mitchell, Avery, and Yancey counties.

Mayland Community College will:

Establish respectful learning environments

Maximize natural resources unique to our area

Bridge the gap between goals and achievement

Respond to the needs of the community

Advance opportunities for entrepreneurship and innovation

Cultivate relationships with community partners

Encourage lifelong learning

### Notice of Nondiscrimination

The College is fully committed to providing a learning and work environment that is free from prohibited discrimination. The College does not practice or condone discrimination based on race, color, national origin, religion, sex, gender, gender identity or expression, pregnancy, disability, genetic information, age, political affiliation or veterans' status in the administration or in any of its academic programs and employment practices. Please see [www.mayland.edu/titleix](http://www.mayland.edu/titleix) for more information.

To comply with the applicable federal and state laws and regulations, the following persons have been designated to handle and investigate inquiries regarding non-discrimination policies:

Name	Title	Phone	Location	Email
Michelle Musich	Dean of Students, Title IX Coordinator	828-766-1262	Gwaltney Hall	<a href="mailto:mmusich@mayland.edu">mmusich@mayland.edu</a>
Judy McClure	Director of Human Resources, Deputy Title IX Coordinator	828-766-1272	Gwaltney Hall	<a href="mailto:jmclure@mayland.edu">jmclure@mayland.edu</a>
Doug Dewar	Director of Counseling & Disability Services, ADA Coordinator	828-766-1256	Gwaltney Hall	ddewar@mayland.edu

### MCC Main Campus, Spruce Pine, NC

	On-campus Property			Public Property		
	2015	2016	2017	2015	2016	2017
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	1	0	0	0
Arson	0	0	0	0	0	0
Hate Crimes	0	0	0	0	0	0
<b>Arrests</b>						
Weapons: Carrying, Possessing, etc.	0	0	1	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	1	0	0	0	0
<b>Disciplinary Actions</b>						
Weapons: Carrying, Possessing, etc.	3	2	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Other Offenses</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	0	0	0	0	0	0

### Avery Learning Center, Newland, NC

	On-campus Property			Public Property		
	2015	2016	2017	2015	2016	2017
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Hate Crimes	0	0	0	0	0	0
<b>Arrests</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0

Liquor Law Violations	0	0	0	0	0	0
<b>Disciplinary Actions</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Other Offenses</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	0	0	0	0	0	0

### Yancey Learning Center, Burnsville, NC

	On-campus Property			Public Property		
	2015	2016	2017	2015	2016	2017
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Hate Crimes	0	0	0	0	0	0
<b>Arrests</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	1	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Disciplinary Actions</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	1	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Other Offenses</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	0	0	0	0	0	0

### Non-campus Property

	Non-campus Property		
	2015	2016	2017
<b>Criminal Offenses</b>			
Murder/Non-negligent Manslaughter	0	0	0
Negligent Manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0

Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
Hate Crimes	0	0	0
<b>Arrests</b>			
Weapons: Carrying, Possessing, etc.	0	0	0
Drug Abuse Violations	0	0	0
Liquor Law Violations	0	0	0
<b>Disciplinary Actions</b>			
Weapons: Carrying, Possessing, etc.	0	0	0
Drug Abuse Violations	0	0	0
Liquor Law Violations	0	0	0
<b>Other Offenses</b>			
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0
<b>Total Unfounded Crimes</b>	0	0	0

- Statistics for all on-campus, public, and non-campus property are collected by campus security officers and combined with statistics provided by local law enforcement agencies.
- MCC does not own or control on-campus student housing facilities.
- In very limited circumstances an institution may remove a report of a crime that has been “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime.

## **Campus Security Reporting Act-Clery Act**

### **I. POLICY OVERVIEW**

The College is committed to providing a safe and secure environment for all members of the College’s community and visitors. The College shall comply with the Crime Awareness and Security Act of 1990, as amended by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

*Students, faculty, staff, and visitors should take precautions to protect their own safety. Do not attempt to interfere with an incident except to protect personal safety and please try to note distinguishing characteristics of individuals and a description of vehicles involved, including license numbers.*

*MCC does have a Security Officer on duty during business hours. MCC Security Officers have the authority to ask persons for identification to determine whether individuals have lawful business on Campus and to issue parking tickets. Criminal incidents are referred to local law enforcement agencies. The Security Officers and College Administration maintain a highly professional working relationship with local law enforcement agencies. MCC security officers and local law enforcement agencies communicate regularly on the scene of incidents that occur in and around Campus. There is no written memorandum of understanding between MCC and local law enforcement agencies.*

*Campus professional counselors, when acting as such, are not required to report crimes for inclusion in the annual disclosure of crime statistics. Counselors are encouraged, if and when they deem it*

*appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary confidential basis for inclusion in annual crime statistics.*

## II. DEFINITIONS

A. *Campus Security Authority* (“CSA”) is a Clery-specific term that encompasses four groups of individuals and organizations associated with an educational institution:

1. A member of the educational institution’s police department or campus security department;
2. Any individual(s) who has responsibility for campus security but who does not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into the College’s property);
3. Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report criminal offenses. For purposes of this College, this individual is the Dean of Students; and
4. An official or someone who has significant responsibility for student and campus activities, including, but not limited to: student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on the College’s behalf.

B. *Clery Act Crimes* are the following crimes that must be reported by Campus Security Authorities to law enforcement and crimes that are listed in the College’s Annual Security Report:

1. Murder/non-negligent manslaughter; negligent manslaughter; sex offenses (forcible and non-forcible); domestic and dating violence; stalking; robbery; aggravated assault; burglary; motor vehicle theft; and arson;
2. Hate Crimes: any of the above-mentioned offenses, and any incidents of larceny-theft; simple assault; intimidation; or destruction/damage/ vandalism of property that was motivated by bias towards race, religion, ethnicity, national origin, gender, sexual orientation, gender identity or disability; and
3. Arrests and referrals for disciplinary action for weapons (carrying, possessing, etc.); drug abuse violations and liquor law violations.

C. *College Property* is all the following property:

1. Campus Grounds, Buildings and Structures – Any building or property owned by or controlled by the College within the same reasonably contiguous geographic area and used by the College in direct support of, or in a manner related to, the College’s educational purposes; and any building or property that is within or reasonably contiguous to such buildings, or property that is owned by the College but controlled by another person and is frequently used by students and supports College purposes.
2. Off-Campus and Affiliated Property – Any building or property owned or controlled by a student organization that is officially recognized by the College; or any building or property owned or controlled by the College that is used in direct support of, or in relation to, the College’s educational purposes, is

frequently used by students, and is not within the same reasonably contiguous geographic area of the College.

3. Public Property – All thoroughfares, streets, sidewalks, and parking facilities that are within the campus, or immediately adjacent to and accessible from the campus.

### III. SAFETY AND REPORTING PROCEDURES

The College encourages all members of the College community to report suspicious or criminal activity to law enforcement as soon as possible. Crimes may be reported anonymously. In the event of a crime in progress or at any time there is a risk of harm to persons or property, call 911.

In addition, CSAs have a legal obligation to file a report of suspected criminal activity with law enforcement and with the Dean of Students Office to ensure statistical inclusion of all Clery Act Crimes in the College's Annual Security Report, when those crimes occur on or near College Property. Any individual identified by the College as a CSA shall receive notification of that designation and the requirement that the individual report information about Clery Act Crimes. Training will also be provided to all persons with this designation. While CSAs must report any Clery Act Crime that comes to their attention, at the request of the victim, the victim's identity may remain anonymous.

To promote safety and security at the College, and in compliance with the Clery Act, the College shall:

- A. Submit crime statistics to the United States Department of Education;
- B. Maintain a daily crime log (open to public inspection);

*A crime log is maintained at the Main Campus and the Learning Centers. The most recent 60-day period is available for review at each location during normal business hours. Any portion of the log older than 60 days is available within two business days of the request. This information can be obtained from the Security Officer or the Dean of the Learning Center. The information in the daily crime log includes the nature, date, time, general location, and disposition of each crime. The names of individuals will be withheld, and any information may be withheld, if its release could jeopardize an ongoing investigation.*

- C. Issue campus alerts to timely warn the College community when there is information that a Clery Act Crime has occurred that represents a serious or ongoing threat to campus safety;
- D. Issue emergency notifications upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The College tests the emergency notification procedure bi-annually.
- E. Publishes and maintains an Annual Security Report containing safety and security related policy statements and statistics of Clery Act Crimes occurring on College Property. To prepare the Annual Security Report, the College collects, classifies, and counts crime reports and crime statistics. The Annual Security Report is available on the College's website and hard copies are available through the Office of Student Services for inspection.

*The Dean of Students prepares this report using crime statistics provided by the MCC Security Office, local law enforcement agencies, and College officials. This report is available online at*

*<http://www.mayland.edu/campus-security-report> or a paper copy may also be requested from Student Services, located on the Main Campus in Gwaltney Hall by October 1. Each year, an email notification that provides the web address to access this report is sent to all enrolled students, faculty, and staff. All prospective employees may obtain a copy from the Human Resources Department, also located on the Main Campus, in Gwaltney Hall.*

### **Campus Security Authorities on Main Campus**

#### **Campus Security**

828-766-1300

Location: Gwaltney Hall, Front Lobby

#### **Michelle Musich, Dean of Students**

828-766-1262

[mmusich@mayland.edu](mailto:mmusich@mayland.edu)

Location: Gwaltney Hall, Student Services

#### **Judy McClure, Director of Human Resources**

828-766-1272

[jmccclure@mayland.edu](mailto:jmccclure@mayland.edu)

Location: Gwaltney Hall, Business Office

### **Campus Security Authority at Avery Learning Center**

Melissa Phillips, Dean of Avery Learning Center

828-766-1380

[mcpillips@mayland.edu](mailto:mcpillips@mayland.edu)

Location: Avery Learning Center, Admin. Offices

## **Reporting Crimes and Emergencies on Campus**

In the event of a crime or an emergency in progress or at any time there is a risk of harm to persons or property, employees, students and visitors should immediately call 9-1-1 and/or notify campus security personnel. Known and suspected violations of federal and state criminal laws should be reported to the appropriate Dean/Vice President who will involve the appropriate law enforcement agency and file the required College documentation.

Criminal incidents occurring off-campus involving students participating in a College function should be immediately reported to law enforcement and to the appropriate Dean/Vice President as soon as possible if a student is involved.

## **Sexual Harassment and Sexual Violence**

The College strives to make its campuses inclusive, safe and a welcoming learning environment for all members of the College community. Pursuant to multiple federal and state laws and administrative regulations and pursuant to College policy, the College prohibits discrimination in its activities, services and programs based on sex, gender, sexual orientation, and gender identity.

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex or gender in any federally funded education program or activity. Under Title IX, discrimination on the basis of sex or gender also includes sexual harassment, stalking, dating and domestic violence, or sexual violence, such as rape, sexual assault, sexual battery, and/or sexual coercion. The College's Title IX Coordinator has

oversight responsibility for handling Sexual Misconduct complaints and for identifying and addressing any patterns and/or systemic problems involving Sexual Misconduct. All allegations involving Sexual Misconduct should be directed to the College's Title IX Coordinator or, in the case of actions solely between employees, the College's Director of Human Resources. If the alleged incident involves both an employee and a student, the Title IX Coordinator shall take the lead but shall work cooperatively with the Director of Human Resources.

## I. DEFINITIONS

The following definitions shall apply to this Procedure and shall be collectively referred to herein as "Sexual Misconduct".

The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. Indeed, just because a student's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

In applying these definitions, College administrators shall view the speech or expression in its context and totality and shall apply the following standard: the alleged victim subjectively views the conduct as discrimination or harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that the conduct is discriminatory or harassing.

A. Confidential Employee – is not a Responsible Employee and is not required to report incidents of Sexual Misconduct to the College's Title IX Coordinator if confidentiality is requested by the student. Campus counselors are considered Confidential Employees. If a student is unsure of someone's duties and ability to maintain one's privacy, the student should ask the person before he/she speaks to him/her.

B. Consent – explicit approval to engage in sexual activity demonstrated by clear actions or words. This decision must be made freely and actively by all participants. Non-verbal communication, silence, passivity or lack of active resistance does not imply consent. In addition, previous participation in sexual activity does not indicate current consent to participate and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent has not been obtained in situations where the individual: i) is forced, pressured, manipulated or has reasonable fear that they will be injured if they do not submit to the act; ii) is incapable of giving consent or is prevented from resisting due to physical or mental incapacity (including being under the influence of drugs or alcohol); or iii) has a mental or physical disability which inhibits his/her ability to give consent to sexual activity. In order to give effective consent, one must be of legal age. In North Carolina, the legal age of consent is 16 years of age.

1. "Mentally disabled" means:

- a victim who suffers from mental retardation, or
- a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

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

C. Dating Violence – crimes of violence against a person with whom the person has or had a social relationship or a romantic or intimate relationship.

D. Domestic Violence – crimes of violence against a current or former spouse or intimate partner, a person with whom the student shares a child in common, a person with whom the student cohabitates or has cohabitated as a spouse, a person similarly situated to the student as a spouse, a person who is related to the student as a parent, child or person who is related to the student as a grandparent or grandchild.

E. Rape – as stipulated by the Federal Bureau of Investigation’s (FBI) updated definition in the UCR Summary Reporting System, means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

This definition includes any sex of victim or Perpetrator. Sexual penetration means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

F. Responsible Employee – a College employee who has the authority to take action to redress sexual harassment/misconduct; who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Title IX Coordinator or other appropriate designee; or who a student reasonably believes has this authority or duty. The College’s Responsible Employees include all College administrators (Deans, Directors, Coordinators and Vice Presidents). If a student is unsure of someone’s duties and ability to maintain one’s privacy, the student should ask the person before he/she speaks to him/her.

G. Sexual Assault – subjecting any person to contact or behavior of a sexual nature for the purposes of sexual gratification without the person’s expressed and explicit consent.

H. Sexual or Gender-Based Harassment – unwelcome sexual advances, requests for sexual favors and other verbal, physical, or electronic conduct of a sexual nature that, from the perspective of a reasonable person, creates a hostile, intimidating, or abusive environment; involve verbal, physical, or electronic conduct based on a person’s sex, gender, or sex-stereotyping that, from the perspective of a reasonable person, creates a hostile, intimidating, or abusive environment, even if those acts do not involve conduct of a sexual nature; including harassment for displaying what is perceived as a stereotypical characteristic for one’s sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, gender identity, or gender expression of the person(s) involved.

I. Stalking – engaging in a course of conduct directed to a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress by placing that person in fear of death, bodily injury or continued harassment.

J. Standard of Evidence – the College uses the preponderance of the evidence as the standard for proof of whether a violation occurred. In the student due process hearing and employee grievance

process, legal terms like “guilt, “innocence” and “burden of proof” are not applicable. Student and employee due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the alleged Perpetrator either “responsible” or “not responsible” for violating these Procedures.

## II. REPORTING

### A. Reporting to Local Law Enforcement.

Individuals may report Sexual Misconduct directly to local law enforcement agencies by dialing 911. Individuals who make a criminal allegation may also choose to pursue College disciplinary action simultaneously. A criminal investigation into the matter does not release the College from its obligation to conduct its own investigation (nor is a criminal investigation determinative of whether Sexual Misconduct has occurred). However, the College’s investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College must take interim measures when necessary to protect the alleged Complainant and/or the College community.

Individuals may choose not to report alleged Sexual Misconduct to law enforcement authorities. The College respects and supports individuals’ decisions regarding reporting; nevertheless, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations.

### B. Reporting to College Officials.

#### 1. Students Complaints.

The College’s Title IX Coordinator oversees compliance with these Procedures and Title IX regulations. Questions about these Procedures should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to Sexual Misconduct may do so by reporting the concern to the College’s Title IX Coordinator.

The College’s Title IX Coordinator is:

Michelle Musich  
mmusich@mayland.edu  
828-766-1262

For Sexual Misconduct incidents between students and employees, the Title IX Coordinator will work in partnership with the Director of Human Resources to investigate and resolve the allegations.

#### 2. Employee Complaints.

All reports of Sexual Misconduct incidents solely between employees should be reported to the Director of Human Resources.

The College’s Director of Human Resources is:

Judy McClure  
jmclure@mayland.edu  
828-766-1272

### III. INITIAL INVESTIGATION

As these Procedures apply to both students and employees as either the Complainant or the Respondent, the administrator receiving the incident report will determine if the case should be handled by: 1) the Title IX Coordinator (student/student); 2) the Director of Human Resources (employee/employee); or 3) both (student/employee). For incidents involving students and employees, the College will utilize the process for both the student investigation and the employee investigation sections as applicable.

#### A. Student Investigation.

1. Students filing complaints (“Complainants”) are urged to do so in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Title IX Coordinator shall fully investigate any complaints and will, as needed, and if the complaint also involves an employee, collaborate with the College’s Director of Human Resources. During the course of the investigation, the Title IX Coordinator may consult with other relevant College administrators and the College Attorney.

2. During the investigation, the Title IX Coordinator shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each party an equal opportunity to provide evidence, including informing the Title IX Coordinator of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

3. During the investigation process, the Title IX Coordinator may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The temporary actions include, but are not limited to: reassignment of class schedules; temporary suspension from campus (but be allowed to complete coursework); or the directives that include no contact between the involved parties.

4. A confidential file regarding the complaint shall be maintained by the Title IX Coordinator. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

5. The Title IX Coordinator shall make every effort to conclude the investigation as soon as possible but no later than thirty (30) calendar days. If the nature of the investigation requires additional time, the Title IX Coordinator may have an additional ten (10) calendar days to complete the investigation. The Title IX Coordinator shall notify the parties of this extension.

6. Upon making the complaint, Complainants will be immediately notified that they have the right to seek additional assistance from law enforcement and have the right to seek, among other things, judicial no-contact, restraining and protective orders. Complainants will also be notified of available counseling services and their options of changing academic situations and other interim protective measures.

B. Employee Investigations.

1. Employees filing complaints (“Complainants”) are urged to do so in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Director of Human Resources shall fully investigate any complaints. During the course of the investigation, the Director of Human Resources may consult with other relevant College administrators and the College Attorney.

2. During the investigation, the Director of Human Resources shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each party an equal opportunity to provide evidence, including informing the Director of Human Resources of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

3. During the investigation process, the Director of Human Resources may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The Director of Human Resources may suspend an employee with pay pending an investigation if such action is in the College’s best interest.

4. A confidential file regarding the complaint shall be maintained by the Director of Human Resources. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

5. The Director of Human Resources shall make every effort to conclude the investigation as soon as possible but no later than thirty (30) calendar days. If the nature of the investigation requires additional time, the Director of Human Resources may have an additional ten (10) calendar days to complete the investigation and shall notify the parties of this extension.

6. Upon making the complaint, Complainants will be immediately notified that they have the right to seek additional assistance from law enforcement and have the right to seek, among other things, judicial no-contact, restraining and protective orders. Complainants will also be notified of available counseling services and other interim protective measures.

IV. RECOMMENDATION AND APPEAL

A. Students.

1. After the investigation is complete, the Title IX Coordinator will put forward a recommendation of finding, based on the Standard of Evidence, and sanctions, if warranted. If the recommendation is accepted by both parties involved, the recommendation and sanction(s) will become effective. The Title IX Coordinator will submit to each party a final outcome letter that will include, but not limited to, the following:

a. Determination if the Respondent is responsible or not responsible for violating these Procedures.

- b. Sanction(s), if appropriate.
- c. Whether monitoring of academic schedules is needed between the parties to ensure that the individuals involved are not in classes together (the Title IX Coordinator will assist in this process).
- d. Short-term College counseling services available to each party.

2. If the Title IX Coordinator's recommendations are not accepted by either the Complainant or the Respondent, both may appeal and request a formal hearing. If the Title IX Coordinator recommends sanctions that he/she cannot impose (i.e., expulsion), the matter shall automatically be set for a hearing. The President will preside over the hearing as the Presiding Officer. The process for the hearing is outlined below:

- a. Prior to the hearing, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence do not apply. The Standard of Evidence shall apply for the hearing.
- b. Written notice including the date, time, and location of the hearing will be sent to all parties.
- c. At the hearing, all pertinent parties have a right to speak and be questioned by the Presiding Officer. Cross-examination between parties is not permitted. The College will provide options for questioning without confrontation. Each phase of the hearing will be heard by both parties in separate rooms by use of a speaker phone.
- d. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the Presiding Officer. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the Presiding Officer at least three (3) College business days prior to the hearing date. In this case, the College Attorney will also be present.
- e. Both parties have a right to a written notice of the hearing outcome.

B. Employees.

1. After the investigation is complete, the Director of Human Resources will put forward a recommendation of finding, based on the Standard of Evidence, and sanctions, if warranted. If the recommendation is accepted by both parties involved, the recommendation and sanctions will become effective. A final outcome letter will be submitted to the Complainant and Respondent that may include, but not limited to, the following:

- a. Determination if the Respondent is responsible, not responsible, or if the decision is deemed inconclusive, or shared responsibility.
- b. Sanctions, if appropriate.
- c. Monitoring of academic schedules or workplace schedule if needed.
- d. Short-term counseling services will be offered to each party.

2. If the Director of Human Resources' recommendations are not accepted by either the Complainant or the Respondent, both may appeal and request a formal hearing. If the Director of Human Resources recommends sanctions that he/she cannot impose (i.e., termination) the matter will automatically be set for a hearing. The President will preside over the hearing as the Presiding Officer. The process for the hearing is outlined below:

- a. Prior to the hearing, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence

do not apply. The Standard of Evidence shall apply for the hearing.

- b. Written notice including the date, time, and location of the hearing will be sent to all parties.
- c. At the hearing, all pertinent parties have a right to speak and be questioned by the Presiding Officer. Cross-examination between parties is not permitted. The College will provide options for questioning without confrontation. Each phase of the hearing will be heard by both parties in separate rooms by use of a speaker phone.
- d. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the Presiding Officer. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the Presiding Officer at least three (3) College business days prior to the hearing date. In this case, the College Attorney will also be present.
- e. Both parties have a right to a written notice of the hearing outcome.

### C. Sanctioning.

The following sanctions may be imposed for those who have violated these Procedures.

#### 1. Students

- a. Verbal or Written Warning
- b. Probation
- c. Administrative withdrawal from a course without refund
- d. Required Counseling
- e. No Contact Directive
- f. Suspension
- g. Expulsion (President must impose)
- h. Other consequences deemed appropriate

#### 2. Employees

- a. Verbal or Written Warning
- b. Performance Improvement Plan
- c. Required Counseling
- d. Required Training or Education
- e. Demotion (President must impose)
- f. Suspension with or without Pay (President must impose)
- g. Termination (President must impose)
- h. Other consequences deemed appropriate to the specific violation

### V. PROTECTION AGAINST RETALIATION

The College will not in any way retaliate against an individual who makes a report of Sexual Misconduct in good faith or who assists in an investigation. Retaliation includes, but is not limited to: any form of intimidation, disciplinary action, reprisal or harassment. Retaliation is a serious violation and should be reported immediately. The College will take appropriate action against any employee or student found to have retaliated against another in violation of these procedures.

### VI. PROVIDING FALSE INFORMATION

Any individual who knowingly files a false report or complaint, who knowingly provides false information to College officials or who intentionally misleads College officials involved in the investigation or resolution of a complaint may be subject to disciplinary action including, but not limited to expulsion or employment termination. The College recognizes that an allegation made in good faith will not be considered false when the evidence does not confirm the allegation(s) of Sexual Misconduct.

#### VII. LIMITED IMMUNITY

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of various policy violations. It is in the best interest of this College that as many Complainants as possible choose to report to College officials and that witnesses come forward to share what they know. To encourage reporting, the College offers Sexual Misconduct Complainants and witnesses amnesty from minor policy violations.

#### VIII. EMPLOYEE AND STUDENT RELATIONSHIPS

Romantic or sexual relationships between College employees and students are prohibited if the employee and the student have an academic relationship. Academic relationships include any activities in which the employee is a direct or indirect supervisor or instructor for the student, as in a classroom or lab, or is a sponsor for any College activity involving the student, including work study or organizational/club/sport activities. This prohibition shall continue until the student or the employee is no longer affiliated with the College. Employees engaging in inappropriate relationships will be subject to disciplinary action up to and including termination of employment. Students engaging in inappropriate relationships may be subject to disciplinary action up to and including expulsion.

Romantic or sexual relationships between College employees and students not in an academic relationship that impairs the College employee's effectiveness, disrupts the workplace/learning environment, and/or impairs the public confidence in the College will be subject to disciplinary action up to and including termination of employment or expulsion from the College.

#### IX. SUSPENDING PROCEDURES

In cases of emergency or serious misconduct, the College reserves the right to suspend this process and may enact appropriate action for the welfare and safety of the College community.

#### X. STUDENT AND EMPLOYEE EDUCATION AND ANNUAL TRAINING

All new students and all employees shall be required to participate in a primary prevention and awareness program that promotes awareness of Sexual Misconduct. This program will be held annually at the beginning of each fall semester.

At this annual training, students and employees must receive training in the following areas:

- A. Information about safe and positive options for bystander intervention skills;
- B. What "consent" means with reference to sexual activities;

- C. Risk reduction programs so students recognize and can avoid abusive behaviors or potential attacks;
- D. How and to whom to report an incident regarding discrimination, harassment and sexual based violence;
- E. The importance of preserving physical evidence in a sexual-based violent crime; and
- F. Options about the involvement of law enforcement and campus authorities, including the alleged victim's option to: i) notify law enforcement; ii) being assisted by campus authorities in notifying law enforcement; iii) declining to notify law enforcement; and iv) obtaining "no-contact" or restraining orders.

These Procedures will be maintained online in the College's website and a hard copy will be kept on file in the Title IX Coordinator's office and the Director of Human Resources' office. Other translations will be made available upon request

## **Sexual Misconduct Awareness and Risk Reduction**

While victim-blaming is never appropriate and MCC fully recognizes that only those who commit sexual misconduct are responsible for their actions, MCC provides the suggestions that follow to help individuals reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

### **Reducing Your Risk if Victimization**

1. Make any limits/boundaries you may have known as early as possible.
2. Clearly and firmly articulate consent or lack of consent.
3. Remove yourself, if possible, from an aggressor's physical presence.
4. Reach out for help, either from someone who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help.
5. Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization.
6. Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices

### **Reduce Your Risk of Being Accused of Sexual Misconduct**

1. Show your potential partner respect if you are in a position of initiating sexual behavior.
2. If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission.
3. Clearly communicate your intentions to your potential sexual partners, and give them a chance to share their intentions and/or boundaries with you.
4. Respect personal boundaries. If you are unsure what's OK in any interaction, ask.
5. Avoid ambiguity. Don't make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don't have consent.
6. Don't take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Others' loss of control does not put you in control.
7. Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.

8. Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
9. Recognize that even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
10. Do not assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions.
11. Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask.
12. Understand that exerting power and control over another through sex is unacceptable conduct.

### **What Bystanders Can Do**

In order to stand up against sexual harassment/sexual violence, one can:

1. Believe violence is unacceptable and say so
2. Treat all people with respect
3. Say something when someone blames the victim
4. Talk with friends about confronting violence
5. Encourage friends to trust their instincts
6. Be aware of campus and community resources
7. Don't laugh at sexist or racist jokes
8. Look out for friends at parties and bars
9. Educate yourself and friends
10. Use campus resources
11. Attend awareness events
12. Empower victims to tell their stories

In addition, one can:

1. Report the incident to a school official immediately
2. Ask a friend in a potentially dangerous situation if he/she wants to leave
3. Make sure the friend gets home safely
4. Ask the victim what he/she needs
5. Provide the victim with options
6. Call the campus counselor, community counseling agency, or community crisis center for support

### **Survivor and Educational Resources** **Counseling and Community Resources**

#### **MCC Counseling Center**

200 Mayland Drive  
Spruce Pine, NC 28777  
828-766-1256

[www.mayland.edu/student-life/counseling-center](http://www.mayland.edu/student-life/counseling-center)

#### **Oasis**

PO Box 1591  
Boone, NC 28607  
828-262-5035 (24 hours)

[www.oasisinc.org](http://www.oasisinc.org)

**Mitchell County SafePlace**

PO Box 544  
Spruce Pine, NC 28777  
828-765-4044 (24 hours)  
[mitchellcountysafeplace.org](http://mitchellcountysafeplace.org)

**Smokey Mountain Center**

800-849-6127 (24 hours)  
[www.smokymountaincenter.com](http://www.smokymountaincenter.com)

**Family Violence Coalition**

PO Box 602  
Burnsville, NC 28714  
828-682-0056 (24 hours)  
[fvcyancey.org](http://fvcyancey.org)

**Blue Ridge Regional Hospital**

125 Hospital Dr.  
Spruce Pine, NC 28777  
828-7665-4201  
[www.mission-health.org/about-blue-ridge-regional-hospital.php](http://www.mission-health.org/about-blue-ridge-regional-hospital.php)

**Law Enforcement Agencies****Avery County Sherriff**

PO Box 426  
Newland, NC 28657  
828-733-2071, ext. 1208  
[www.averycountync.gov/departments/sheriffs\\_dept.php](http://www.averycountync.gov/departments/sheriffs_dept.php)

**Mitchell County Sherriff**

26 Crimson Laurel Circle, Suite 2  
Bakersville, NC 28705  
828-688-2139, ext. 1636  
[www.mitchellcounty.org/departments/sheriff](http://www.mitchellcounty.org/departments/sheriff)

**Yancey County Sherriff**

4 East Main St.  
PO Box 6  
Burnsville, NC 28714  
828-682-2124  
[yanceycountysheriff.org](http://yanceycountysheriff.org)

**National Governmental Resources****US Department of Education,  
Office of Civil Rights**

Lyndon Baines Johnson  
Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
800-421-3481  
[www.ed.gov/ocr](http://www.ed.gov/ocr), email:  
[OCR@ed.gov](mailto:OCR@ed.gov)

**US Department of Justice, Office on  
Violence Against Women**

Office on Violence Against Women 145  
N Street, NE, Suite 10W.121  
Washington, DC 20530  
202-307-6026  
[www.justice.gov/ovw](http://www.justice.gov/ovw)

**National Sexual Assault Hotline**

800-656-HOPE(4673)  
[www.rainn.org](http://www.rainn.org)

**National Sexual Violence Resource  
Center**

877-739-3895  
[www.nsvrc.org](http://www.nsvrc.org)

**National Domestic Violence****National Teen Dating Abuse Helpline**

**Hotline**  
800-799-SAFE(7233)  
[www.thehotline.org](http://www.thehotline.org)

866-331-9474  
[www.loveisrespect.org](http://www.loveisrespect.org)

**Stalking Resource Center**  
202-467-8700  
[www.victimsofcrime.org/our-programs/stalking-resource-center](http://www.victimsofcrime.org/our-programs/stalking-resource-center)

**Break the Cycle**  
Washington DC Office  
202-824-0707  
[www.breakthecycle.org](http://www.breakthecycle.org)

**NO MORE**  
[www.nomore.org](http://www.nomore.org)

**Know Your IX**  
[www.knowyourix.org](http://www.knowyourix.org)

**Not Alone: Together Against Sexual Assault**  
[www.notalone.gov](http://www.notalone.gov)

### **State Governmental Resources**

**NC Coalition Against Sexual Assault**  
811 Spring Forest Rd. Suite 900  
Raleigh, NC 27609  
919-871-1015  
[www.ncccasa.org](http://www.ncccasa.org)

**NC Victim Assistance Network**  
5700 Six Forks Road, Suite 101  
Raleigh, NC 27609  
800-348-5068  
[www.nc-van.org](http://www.nc-van.org)

### **Unlawful Discrimination**

The College strives to make its campuses inclusive, safe and a welcome learning environment for all members of the College community. Pursuant to multiple federal and state laws and administrative regulations and pursuant to College policy, the College prohibits discrimination in its activities, services and programs based on race, color, national origin, religion, pregnancy, disability, genetic information, age, political affiliation or veterans' status.

#### **I. DEFINITIONS**

The following definitions shall apply to this Procedure and shall be collectively referred to herein as "Unlawful Discrimination".

The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. Indeed, just because a student's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

In applying these definitions, College administrators shall view the speech or expression in its context and totality and shall apply the following standard: the alleged victim subjectively views the conduct as discrimination or harassment and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that the conduct is discriminatory or harassing.

A. Discrimination: any act or failure to act that unreasonably differentiates treatment of others based solely on their Protected Status and is sufficiently serious, based on the perspective of a reasonable person, to unreasonably interfere with or limit the ability of that individual to participate in, access or benefit from the College's programs and activities. Discrimination may be intentional or unintentional.

B. Harassment: a type of Discrimination that happens when verbal, physical, electronic or other behavior based on a person's Protected Status interferes with a person's participation in the College's programs and activities and it either creates an environment that a reasonable person would find hostile, intimidating, abusive or where submitting to or rejecting the conduct is used as the basis for decisions that affect the person's participation in the College's programs and activities.

Harassment may include but is not limited to: threatening or intimidating conduct directed at another because of the individual's Protected Status; ethnic slurs, negative stereotypes and hostile acts based on an individual's Protected Status.

C. Protected Status: race, color, national origin, religion, pregnancy, disability, genetic information, age, political affiliation or veterans' status.

D. Standard of Evidence - the College uses the preponderance of the evidence as the standard for proof of whether a violation occurred. In the student due process hearing and employee grievance process, legal terms like "guilt," "innocence" and "burden of proof" are not applicable. Student and employee due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the alleged Perpetrator either "responsible" or "not responsible" for violating these Procedures.

## II. STATEMENTS OF PROHIBITION

### A. Prohibition of Retaliation.

The College strictly prohibits punishing students or employees for asserting their rights to be free from Unlawful Discrimination. Retaliation against any person participating in connection with a complaint of Unlawful Discrimination is strictly prohibited. Reports of retaliation will be addressed through this procedure and/or other applicable College procedures. Retaliation includes, but is not limited to, any form of intimidation, punitive actions from authority figures or peers, reprisals (acts of vengeance) or harassment. Retaliation is a serious violation and should be reported immediately. The College will take appropriate disciplinary action against any employee or student found to have retaliated against another.

### B. Prohibition of Providing False Information.

Any individual who knowingly files a false report or complaint, who knowingly provides false information to College officials, or who intentionally misleads College officials involved in the investigation or resolution of a complaint may be subject to disciplinary action including, but not limited to expulsion or employment termination. The College recognizes that an allegation made in good faith will not be considered false when the evidence does not confirm the allegation(s) of Unlawful Discrimination.

## III. REQUESTING ACCOMMODATIONS

A. Students.

Students with disabilities wishing to make a request for reasonable accommodations, auxiliary communication aids or services, or materials in alternative accessible formats should contact the College's Office of Student Services located at MCC Gwaltney Building. Information provided by students is voluntary and strict confidentiality is maintained. All requests for accommodations will be considered following the appropriate federal and state laws.

The College will also provide reasonable accommodation of a student's religious beliefs/practices provided such expression/practice does not create a hostile environment for other students and employees and/or the accommodation does not cause an undue hardship for the College.

B. Employees.

Employees with disabilities wishing to make a request for reasonable accommodations, auxiliary communication aids or services, or materials in alternative accessible formats should contact the College's Office of Human Resources located at MCC Gwaltney Building. Information provided by employees is voluntary and strictly confidential.

The College will also provide reasonable accommodation of an employee's religious beliefs/practices provided such expression/practice does not create a hostile environment for other employees and students and/or the accommodation does not cause an undue hardship for the College.

IV. REPORTING OPTIONS

A. Student Complaints.

Any student wishing to make a report relating to Unlawful Discrimination may do so by reporting the concern to the College's Office of Student Services located at MCC Gwaltney Building.

For Unlawful Discrimination incidents between students and employees, the Vice President of Instruction and Student Development ("Vice President") will work in partnership with the Director of Human Resources to investigate and resolve the allegations.

B. Employee Complaints.

Any employee wishing to make a report related to Unlawful Discrimination may do so by reporting the concern to the College's Director of Human Resources located at MCC Gwaltney Building.

V. INITIAL INVESTIGATION

As these Procedures apply to both students and employees as either the Complainant or the Respondent, the administrator receiving the incident report will determine if the case should be handled by: 1) the Vice President, or designee (student/student); 2) the Director of Human Resources, or designee (employee/employee); or 3) both (student/employee). For incidents involving students and employees, the College will utilize the process for both the student investigation and the employee investigation sections as applicable.

A. Student Investigation.

1. Students filing complaints (“Complainants”) are urged to do so in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Dean of Students shall fully investigate any complaints and will, as needed, and if the complaint also involves an employee, collaborate with the College’s Director of Human Resources. During the course of the investigation, the Dean of Students may consult with other relevant College administrators and the College Attorney.

2. During the investigation, and if applicable to the complaint, the Dean of Students shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each party an equal opportunity to provide evidence, including informing the Dean of Students of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

3. During the investigation process, the Dean of Students may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The temporary actions include, but are not limited to: reassignment of class schedules; temporary suspension from campus (but be allowed to complete coursework); or directives that include no contact between the involved parties.

4. A confidential file regarding the complaint shall be maintained by the Dean of Students. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

5. The Dean of Students shall make every effort to conclude the investigation as soon as possible but no later than thirty (30) calendar days. If the nature of the investigation requires additional time, the Dean of Students may have an additional ten (10) calendar days to complete the investigation. The Dean of Students shall notify the parties of this extension.

6. Complainants will be notified of available counseling services and their options of changing academic situations and other interim protective measures.

B. Employee Investigations.

1. Employees filing complaints (“Complainants”) are urged to do so in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Director of Human Resources shall fully investigate any complaints. During the course of the investigation, the Director of Human Resources may consult with other relevant College administrators and the College Attorney.

2. During the investigation, and if applicable to the complaint, the Director of Human Resources shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each

party an equal opportunity to provide evidence, including informing the Director of Human Resources of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

3. During the investigation process, the Director of Human Resources may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The Director of Human Resources may suspend an employee with pay pending an investigation if such action is in the College's best interest.

4. A confidential file regarding the complaint shall be maintained by the Director of Human Resources. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

5. The Director of Human Resources shall make every effort to conclude the investigation as soon as possible but no later than thirty (30) calendar days. If the nature of the investigation requires additional time, the Director of Human Resources may have an additional ten (10) calendar days to complete the investigation and shall notify the parties of this extension.

6. Complainants will be notified of available counseling services and other interim protective measures.

## VI. RECOMMENDATION AND APPEAL

### A. Students.

1. After the investigation is complete, the Vice President will put forward a recommendation of finding, based on the Standard of Evidence, and sanction(s) to both the Complainant and Respondent. If the recommendation is accepted by both parties involved, the recommendation and sanction(s) will become effective. The Vice President will submit to each party a final outcome letter that will include, but is not limited to, the following:

- a. Determination if the Respondent is responsible or not responsible for violating these Procedures;
- b. Sanction(s);
- c. Whether monitoring of academic schedules is needed between the parties to ensure that the individuals involved are not in classes together (the Vice President will assist in this process).
- d. Short-term College counseling services available to each party.

2. If the Vice President's recommendations are not accepted by either the Complainant or the Respondent, both may appeal and request a formal hearing. If the Vice President recommends sanctions that he/she cannot impose (i.e., expulsion), the matter shall automatically be set for a hearing. The President will preside over the hearing as the Presiding Officer. The process for the hearing is outlined below:

- a. Prior to the hearing, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence do not apply. The Standard of Evidence shall apply for the hearing.

- b. Written notice including the date, time, and location of the hearing will be sent to all parties.
- c. At the hearing, all pertinent parties have a right to speak and be questioned by the Presiding Officer. Cross-examination between parties is not permitted. The College will provide options for questioning without confrontation. Each phase of the hearing will be heard by both parties in separate rooms by use of a speaker phone.
- d. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the Presiding Officer. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the Presiding Officer at least three (3) College business days prior to the hearing date. In this case, the College Attorney will also be present.
- e. Both parties have a right to a written notice of the hearing outcome.

**B. Employees.**

1. After the investigation is complete, the Director of Human Resources will put forward a recommendation of finding, based on the Standard of Evidence, and sanctions to both the Complainant and Respondent. If the recommendation is accepted by both parties involved, the recommendation and sanctions will become effective. A final outcome letter will be submitted to the Complainant and Respondent that may include, but not limited to, the following:

- a. Determination if the Respondent is responsible, not responsible, or if the decision is deemed inconclusive, or shared responsibility.
- b. Sanction(s), if appropriate.
- c. Monitoring of academic schedules or workplace schedule if needed.
- d. Short-term counseling services will be offered to each party.

2. If the Director of Human Resources' recommendations are not accepted by either the Complainant or the Respondent, both may appeal and request a formal hearing. If the Director of Human Resources recommends sanctions that he/she cannot impose (i.e., termination) the matter will automatically be set for a hearing. The President will preside over the hearing as the Presiding Officer. The process for the hearing is outlined below:

- a. Prior to the hearing, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence do not apply. The Standard of Evidence shall apply for the hearing.
- b. Written notice including the date, time, and location of the hearing will be sent to all parties.
- c. At the hearing, all pertinent parties have a right to speak and be questioned by the Presiding Officer. Cross-examination between parties is not permitted. The College will provide options for questioning without confrontation. Each phase of the hearing will be heard by both parties in separate rooms by use of a speaker phone.
- d. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the Presiding Officer. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the Presiding Officer at least three (3) College business days prior to the hearing date. In this case, the College Attorney will also be present.
- e. Both parties have a right to a written notice of the hearing outcome.

**C. Sanctioning.**

The following sanctions may be imposed for those who have violated these Procedures.

1. Students.
  - a. Verbal or Written Warning
  - b. Probation
  - c. Administrative withdrawal from a course without refund
  - d. Required Counseling
  - e. No Contact Directive
  - f. Suspension
  - g. Expulsion (President must impose)
  - h. Other consequences deemed appropriate
  
2. Employees.
  - a. Verbal or Written Warning
  - b. Performance Improvement Plan
  - c. Required Counseling
  - d. Required Training or Education
  - e. Demotion (President must impose)
  - f. Suspension with or without Pay (President must impose)
  - g. Termination (President must impose)
  - h. Other consequences deemed appropriate to the specific violation

*MCC will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the College against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, MCC will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.*

## **Weapons on Campus**

Students, staff, faculty and visitors are legally prohibited from carrying a weapon onto campus unless a legal exception applies. For purposes of this policy, a "weapon" includes firearms, explosives, BB guns, stun guns, air rifles or pistols, and certain types of knives or other sharp instruments (see N.C.G.S. § 14-269.2).

The prohibition does not apply if the weapon is on campus pursuant to one of the reasons listed in N.C.G.S. § 14-269.2(g). It is the individual's responsibility to know and understand the law prior to bringing any weapon onto campus. Failure to follow the law, regardless of the person's intent, will result in appropriate disciplinary action and a referral to local law enforcement.

It is permissible for an individual to bring a weapon onto campus under the following limited circumstances:

- A. The firearm is a handgun; AND

- B. The individual has a valid concealed handgun permit (or is exempt from the law requiring a permit); AND
- C. The handgun remains in either: a closed compartment or container within the locked vehicle of the permit holder; or a locked container securely affixed to the locked vehicle of the permit holder; AND
- D. The vehicle is unlocked only when the permit holder is entering or exiting the vehicle; AND
- E. The handgun remains in the closed compartment or container at all times except for a reasonable amount of time for the person to transfer the handgun from the closed compartment or container to his person or from his person to the closed compartment or container.

The prohibition does not apply to weapons used as part of a sanctioned school activity or ceremony.

Firearms (and other weapons prohibited on campus) may not be stored or transported in College-owned or rented vehicles.

## **Human Resources- Alcohol and Drugs on Campus**

The illegal use of controlled substances, substances that cause impairment, and abuse of alcohol are harmful to the health, well-being and safety of the College's employees and students. Employees and students who illegally use controlled substances, substances that cause impairment, or who abuse alcohol are less productive, less reliable and prone to greater absenteeism resulting in unnecessary costs, delays, academic failure and safety risks. The College is committed to maintaining a safe workplace and an educational environment free from the influence of illegal controlled substances, substances that cause impairment, and alcohol.

### **I. PROHIBITED BEHAVIOR**

All College employees and students are prohibited from unlawfully possessing, using, being under the influence of, manufacturing, dispensing, selling or distributing alcohol, illegal or unauthorized controlled substances or drug paraphernalia. Using or being under the influence of substances that cause impairment is prohibited for all employees and students.

This Policy does not apply to the use of alcohol in instructional situations (e.g., cooking classes, laboratory experiments) or in conjunction with events which meet the requirements of all state laws. This Policy does not apply to the proper use of lawfully prescribed controlled substances by a licensed health-care provider to the student or employee who is prescribed the controlled substance and using it in the manner in which the healthcare provider prescribed it.

### **II. DEFINITIONS**

For purposes of this Policy, the following definitions shall apply:

- A. *Alcohol* means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages.

B. *Controlled Substance* means any substance listed in 21 CFR Part 1308 and other federal regulations, as well as those listed in Article V, Chapter 90 of the North Carolina General Statutes. Generally, the term means any drug which has a high potential for abuse and includes, but is not limited to heroin, marijuana, cocaine, PCP, GHB, methamphetamines, and crack. This term also includes any drugs that are illegal under federal, state or local laws and legal drugs that have been obtained illegally or without a prescription by a licensed healthcare provider or are not intended for human consumption.

C. *Substance* means any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs.

D. *Conviction* means the entry in a court of law or military tribunal of: (1) a plea of guilty, nolo contendere, no contest or the equivalent; (2) a verdict of guilty; or (3) a prayer for judgment continued or a deferred prosecution.

E. *Reasonable Suspicion* is the legal standard required before the College can require an employee to take a drug or alcohol test. Some of the factors that constitute reasonable suspicion are: a) direct observation of drug use or possession; b) direct observation of the physical symptoms of being under the influence of drugs; c) impairment of motor functions; d) pattern of abnormal or erratic conduct or behavior; or e) reports from reliable sources or credible sources (anonymous tips may only be considered if they can be independently corroborated).

### III. DUTY TO REPORT

Pursuant to Procedures 4.3.3.1 – Arrests and Convictions, all employees who are arrested, indicted, cited or convicted for a criminal offense are required to inform, in writing, his/her supervisor. This includes being arrested or receiving a citation for a violation of any federal or state controlled substance or alcohol statute. If an employee's arrest, conviction or citation has an effect on the employee's ability to perform his/her job duties or brings negative attention to the College, the employee may be subject to disciplinary action in accordance with this Policy.

Convictions of employees working under federal grants that are convicted of violating a federal or state controlled substance or alcohol statute on the College's property, or as part of any activity initiated by the College, shall be reported to the appropriate federal agency. A College official must notify the U.S. government agency, which made the grant, within ten (10) days after receiving notice from the employee or otherwise receives actual notice of a conviction of a controlled substance or alcohol statute occurring in the workplace.

Students employed under the College Work Study Program are considered to be employees of the College if the work is performed for the College in which the student is enrolled. For work performed for a federal, state, local public agency, a private nonprofit or a private for-profit agency, students are considered to be employees of the College unless the agreement between the College and the organization specifies that the organization is considered to be the employer.

### IV. CONSEQUENCES FOR VIOLATIONS

Violation of this Policy will subject students and employees to disciplinary action including, but not limited to: suspension, expulsion, non-renewal or termination of employment or the requirement that the student or employee satisfactorily participate in a drug or alcohol abuse assistance or rehabilitation

program at the student or employee's expense and approved by the College and agree to certain conditions.

Article V of Chapter 90 of the North Carolina General Statutes makes it a crime to possess, manufacture, sell or deliver or possess with intent to sell or deliver a controlled substance. N.C.G.S. § 90-95. As citizens, all members of the College community are expected to know and comply with these laws. Legal matters may be referred to local law enforcement. Employees and students who are in violation of alcohol and drug laws may suffer legal consequences ranging from fines up to incarceration. Furthermore, any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs, is also considered a violation of the drug and alcohol Policy.

#### V. CONTROLLED SUBSTANCES AND ALCOHOL TESTING

Upon a conditional offer of employment, new employees may be required to be tested for substances, including controlled substances or alcohol.

Employees may be required to be tested for substances, including controlled substances or alcohol, based on individualized, reasonable suspicion. The required observations for reasonable suspicion testing shall be made by an administrator, supervisor or other trained official and the person who makes the determination that reasonable suspicion exists shall not be the same person who conducts the test. This section does not apply to law enforcement officers serving the College through the local sheriff's department. Law enforcement officers must adhere to their normal standards when conducting a search.

All substances, including controlled substances and alcohol testing, shall be administered by a non-College, third party laboratory chosen by the President. The testing shall be performed at the laboratory. A representative from Human Resources and the employee's immediate supervisor will accompany the employee to the testing site utilizing a College vehicle (if available). The chosen laboratory shall use standard testing protocols that will maintain the confidentiality of the employee and student. All tests shall be reviewed by a medical review officer not affiliated with the College. Employees will have the opportunity to provide any information to the medical center which the employee considers relevant to the test, including identification of currently or recently used prescription or non-prescription drugs. The College shall pay for the initial test. If the employee wishes to dispute the results with a subsequent re-test, the employee shall be responsible for the cost of the re-test.

Pending the results of the testing, (if not instant), the employer can suspend the employee on leave with pay. The College must give the employee written notice of positive results and notice of the right to a re-test (at the employee's expense) pursuant to G.S. 95-232(f). If the results are positive, the supervisor may recommend disciplinary action pursuant to Policy 4.3.4.

#### VI. POST-ACCIDENT TESTING

In the event of a work-related injury, if the supervisor has reason to suspect that impairment is involved in the accident s/he should report the incident to a representative from the Human Resources Department and the employee may be tested as set forth above.

## Students-Alcohol and Drugs on Campus

The College is committed to providing each of its students a drug and alcohol free environment in which to attend classes and study. From a safety perspective, the users of drugs or alcohol may impair the well-being of students, interfere with the College's educational environment and result in damage to College property.

All students shall adhere to the following:

- A. All students are prohibited from unlawfully possessing, using, being under the influence of, manufacturing, dispensing, selling or distributing alcohol, illegal or unauthorized controlled substances or impairing substances at any College location.
1. *Controlled Substance* means any substance listed in 21 CFR Part 1308 and other federal regulations, as well as those listed in Article V, Chapter 90 of the North Carolina General Statutes. Generally, the term means any drug which has a high potential for abuse and includes, but is not limited to heroin, marijuana, cocaine, PCP, GHB, methamphetamines, and crack. This term also includes any drugs that are illegal under federal, state or local laws and legal drugs that have been obtained illegally or without a prescription by a licensed healthcare provider or are not intended for human consumption.
  2. *Alcohol* means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages.
  3. *Impairing Substances* means any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs.
  4. *College Location* means in any College building or on any College premises; in any College-owned vehicle or in any other College-approved vehicle used to transport students to and from College or College activities; and off College property at any College-sponsored or College-approved activity, event or function, such as a field trip or athletic event, where students are under the College's jurisdiction.
  5. *Reasonable Suspicion* is the legal standard required before the College can require a student to take a drug or alcohol test. Some of the factors that constitute reasonable suspicion are: a) direct observation of drug use or possession; b) direct observation of the physical symptoms of being under the influence of drugs; c) impairment of motor functions; d) pattern of abnormal or erratic conduct or behavior; or e) reports from reliable sources or credible sources (anonymous tips may only be considered if they can be independently corroborated).
- B. Student use of drugs as prescribed by a licensed physician is not a violation of Policy; however, individuals shall be held strictly accountable for their behavior while under the influence of prescribed drugs.
- C. Students may be required to be tested for substances, including controlled substances or alcohol, based on individualized, reasonable suspicion. The required observations for reasonable suspicion testing shall be made by an administrator, supervisor or other trained official and the person who makes the determination that reasonable suspicion exists shall not be the same person who

conducts the test. This section does not apply to law enforcement officers serving the College through the local sheriff's department. Law enforcement officers must adhere to their normal standards when conducting a search.

D. The College does not differentiate between drug users, drug pushers or sellers. Any student in violation of Section A herein will be subject to disciplinary action up to and including termination or expulsion and referral for prosecution.

E. A student who violates the terms of this Policy will be subject to disciplinary action in accordance with Policy 5.3.2 – Standards of Student Conduct. At his/her discretion, the appropriate Dean/AVP may require any student who violates the terms of this Policy to satisfactorily participate in a drug abuse rehabilitation program or an alcoholic rehabilitation program sponsored by an approved private or governmental institution as a precondition of continued enrollment at the College.

F. Each student is required to inform the College, in writing, within five (5) business days after he/she is convicted for violation of any federal, state, or local criminal drug statute or alcoholic beverage control statute where such violation occurred while on or at a College location. Failure to do so could result in disciplinary action.

G. In addition to this Policy, students employed by the College, including students employed under the College's Work Study Program, shall adhere to the requirements in Policy 3.4.4 – Alcohol and Drugs on Campus.

*All students will be offered an online drug and alcohol abuse prevention and awareness course through the Safe College on-line learning platform each year, in the Orientation courses required of degree seeking students, and through other educational opportunities offered throughout the year.*

## **Emergency Response and Evacuation Procedures**

### **Emergency Notifications**

*In the event that a situation arises, on or off campus, that the President or his designee deems an ongoing or continuing threat, a campus-wide timely warning will be issued.*

*If a situation poses an immediate threat to the community, the President or his designee will determine the content of the warning and disseminate the information without delay, unless issuing a notification will, in his/her professional judgement, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.*

*During an emergency incident, college officials will alert the campus community through at least one of the following methods, depending on the severity of the incident:*

- *LEO-Regroup emergency text messages (You must be registered.)*
- *The Lynx messenger system on college owned computers of essential personnel*
- *The Lynx mass notification system*
- *College e-mail*

*If an immediate notification is necessary at one of the learning centers, a notice will be placed on the front door and individuals will be given directives by the Dean of that particular center.*

### **Evacuation**

I. Emergency Evacuation

a. Spruce Pine Campus: Proceed to the assigned safety zones.

<b>Building Name</b>	<b>Primary Evacuation Site</b>	<b>Alternate Evacuation Site</b>
Student Commons #200	Evacuation Zone 3	Evacuation Zone 6
LRC #200	Evacuation Zone 2 or 3	Evacuation Zone 6 or 4
Gwaltney Hall #200	Evacuation Zone 3 or 1	Evacuation Zone 6 or 1
Sam Center #198	Evacuation Zone 3	Evacuation Zone 6
Phillips Annex #196	Evacuation Zone 1	Evacuation Zone 1
Health Science #210	Evacuation Zone 4	Evacuation Zone 2
Mayland Early College #264	Evacuation Zone 2	Evacuation Zone 3 or 4
Public Safety/Horticulture #296	Evacuation Zone 5	Evacuation Zone 2
Welding #317	Evacuation Zone 5	Evacuation Zone 6
CT # 307	Evacuation Zone 6	Evacuation Zone 3

Yancey Learning Center: Proceed to the parking lot above the Learning Center.

Avery Learning Center: Proceed to the Avery County Schools parking lot.

- b. Handicapped persons in the building should use a route without stairs. All handicapped persons on the second story of buildings who cannot go down the stairs should wait for assistance at the stairwell.
- c. Emergency Evacuation/Inclement Weather plans are located in all areas. The primary exit will be marked. Proceed to the safety zone listed.
- d. Each faculty member and instructor with a class should take his/her roll book and get all of their students out of the building. Faculty and instructors are to account for all students in the class once the building is evacuated. All faculty and instructors who are not in a class will help escort students who are not in classes out of the building.
- e. Doors are to be closed, but not locked, and lights left on.
- f. Students and college personnel are not to go to their cars or leave the campus during a fire drill or emergencies.
- g. During the evening hours Campus Security will monitor the fire emergency and contact essential personnel and the President.

- h. All faculty and instructors are responsible to know alternate routes of exit and instruct all of their students about the Emergency Evacuation Plan.
- i. During a fire drill, the Emergency Coordinator of Buildings will indicate when reentering of the building is cleared. In a real fire, please wait for instructions from emergency officials.
- j. A safety zone is defined as the location where groups will stand until the "all clear" is announced or further directions are given.
- k. Evacuation of People with Disabilities
  1. Evacuating a disabled or injured person alone should be a last resort. Consider your options and the risks of injuring yourself and others in an evacuation attempt. Do not make an emergency situation worse.
  2. Some people have conditions that can be aggravated or triggered if they are moved incorrectly. If people with mobility impairments cannot exit, they should be moved to a safer area (i.e., most enclosed stairwells).
  3. Attempt a rescue evacuation only when the disabled person is in immediate danger and cannot wait for professional assistance.
  4. It may be necessary to help clear the exit route of debris (if possible) so that the person with a disability can move to a safer area.
  5. In some multi-story buildings the disabled person may be moved to the "Area of Rescue" located in the stairwells to await rescue by emergency personnel. The area of rescue has a phone system for communication with emergency personnel. For buildings that do not have an "Area of Rescue" the disabled person must be moved to the nearest stairwell to await rescue.
  6. Notify Campus Security or fire personnel immediately about any people waiting to be rescued.
  7. Two physically capable occupants should be invited to volunteer to assist the disabled during evacuation. If volunteers are not available, designate two people to assist who are willing to accept the responsibility. Ask the disabled person how he or she can best be assisted or moved, and whether there are any special considerations or items that need to come with the person.
  8. DO NOT use elevators, unless authorized to do so by police or fire personnel. Elevators could fail during a fire or other disaster.
  9. If disabled people are in immediate danger and cannot be moved to a safer area to wait for assistance, it may be necessary to evacuate them using a carry technique. Proper lifting techniques (e.g., bending the knees, keeping the back straight, holding the person close before lifting, and using leg muscles to lift) should be used to avoid injury to the rescuers. Certain lifts may need to be modified depending on the person's disability. Remember that two-person rescues are preferable.
  10. DO NOT evacuate disabled people in their wheelchairs. This is standard practice to ensure the safety of disabled people and volunteers. Wheelchairs will be evacuated later if possible.
  11. Evacuating Persons with Blindness or Visual Impairment: Give verbal instructions to advise about the safest route or direction using compass directions, estimated distances, and directional terms. DO NOT grasp a visually impaired person's arm. Ask if he or she would like to hold onto your arm as you exit, especially if there is debris or a crowd. Give other verbal instructions or information (i.e., elevators cannot be used).
  12. Evacuating Persons with Deafness or Hearing Loss: Get the attention of a person with a hearing impairment by touch and eye contact. Clearly state the problem. Gestures and pointing are helpful, but be prepared to write a brief statement if the person does not seem to understand.

Offer visual instructions to advise the safest route or direction by pointing toward exits or evacuation maps.

## **Active Shooter – S-E-L-F**

If you hear shots fired inside or near your building:

The following sequential steps will help protect you and others. The acronym, SELF, follows the order of choices you should make based on your specific location and situation. You will determine which course of action to follow based on the situation.

### **Survey**

Be aware of your surroundings, where you are, and what is available

### **Evacuate**

This is your first and best choice when possible

Evacuate and run as far away as possible

Help those who need assistance, being aware that helping may place you in greater danger

As soon as you are safe, call 911

If you encounter police, immediately raise your hands over your head with your fingers spread apart and yell we're coming out

### **Lock-Down**

If you cannot evacuate, this is your next best choice

If you not in a space that can be locked or secured move quickly to a place where you can secure the doors

If available, use the door lock

If not available, use a belt to tie two doors or door hinges together or use a belt or electrical cable to tie around the door handle while pulling the end tight as you stand to the side

In addition to securing the door, barricade the door with desks, chairs, and other objects

Move to an area out of sight

Turn off lights

Close blinds

Silence all cell phones

Be quiet, but call 911 and plan your next action

### **Fight-Back**

This is the last and least desirable choice

Only confront the aggressor if you are in immediate danger and have no other option

Distracting, disarming, and subduing the aggressor may be your only choice

You can use backpacks, books, water bottles, etc. to throw at the aggressor to distract

If the weapon is separated from the aggressor put any large item, such as a trashcan, over the weapon, keeping the weapon will cause you to be seen by police as the aggressor

If it becomes necessary, it is important that you resist forcefully and however possible

## **Sex Offender Information**

In accordance with the Campus Sex Crimes Prevention Act of 2000 ("Act"), the College is providing to its campus community a link to the National Sex Offender Public Website ([www.nsopw.gov](http://www.nsopw.gov)) and North Carolina Sex Offender and Public Protection Registry ([sexoffender.ncsbi.gov](http://sexoffender.ncsbi.gov)). The Act requires the

College to issue a statement advising the campus community where law enforcement information provided by North Carolina concerning registered sex offenders may be obtained. The Act also requires sex offenders already required to register in North Carolina to provide notice of each institution of higher education in North Carolina at which the person is employed, carries a vocation or is a student. North Carolina law requires sex offenders who have been convicted of certain offenses to register with their county's sheriff. Information about sex offenders is then entered into the Registry database by the sheriff's office and transmitted to the N.C. State Bureau of Investigation. The N.C. State Bureau of Investigation collects information submitted by sheriffs in all one hundred (100) counties in the state and makes it available to the public via the Registry.