

## **UNIVERSITY POLICY AND EXCERPTS FROM N.C. GENERAL STATUTES ON SPECIFIC CRIMES SECTION**

### **Sexual Assault Policy Statement**

North Carolina Agricultural and Technical State University will not tolerate affronts to basic human dignity in any form. Rape, sexual offenses, and sexual assault in general represent such affronts. Moreover, these activities represent criminal violations of law and allegations of such activities by students and employees of the University will be investigated fully. The individual(s) affiliated with the University who are found guilty of committing these prohibited acts at locations on or off the campus will be subject to all available courses of disciplinary action, in addition to any and all penalties for violating state law.

The penalty for first-degree sexual offense and first-degree rape may be life imprisonment. For the second-degree of these offenses, the maximum penalty is twenty years imprisonment.

In North Carolina, the crime of rape is legally defined in the first and second degrees (N.C.G.S. 14-27.2-27.3). A person is guilty of rape in the first degree if the person engages in a sexual act:

- 1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or
- 2) With another person by force and against the will of the other person, and;
  - a) Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon or an article.
  - b) Inflicts serious personal injury upon the victim or another person.
  - c) The person commits the offense aided and abetted by one or more other persons.

Any person who commits an offense defined in this section is guilty of a Class B1 felony.

A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person;

- a) By force and against the will of the other person; or
- b) Who is mentally defective, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally defective, mentally incapacitated, or physically helpless.

Any person who commits the offense defined in this section is guilty of a Class C felony.

The “force” necessary to convict for rape may be other than physical force. It may be fear, fright, or coercion. Those who aid or abet a rape may be equally guilty of the crime. Also, forced sexual intercourse with a person who is physically helpless, as from overuse of alcohol, constitutes rape under North Carolina Law.

“Acquaintance Rape” and “Date Rape” are terms commonly used to describe forced intercourse by a person on another that he or she knows. However, the social relationship with an individual does not make “forced” sexual activity legal.

A sexual offense is a forced sexual act by a person of either gender where the act is against the will of the victim N.C.G.S. 14-27.4-27.10. This crime may not involve intercourse but does involve other sexual acts.

The University supports the idea that all students and employees must be able to learn and work in an environment free of sexual assault. Sexual assault is broadly defined as oral, anal or vaginal

penetration of an unwilling party by any body part or other object. This includes parties who are physically helpless such as unconscious, asleep, physically unable to communicate their unwillingness or persons to whom narcotics have been administered rendering the person unable to give consent to such activity. Sexual assault does not include procedures done for bona fide medical purposes.

Moreover, the University views sexual assault as an extremely serious matter and will respond in accordance with the guidelines established herein and in the handbooks for faculty and staff members. In each case, the potential for subsequent harm to the victim or community at large weigh heavily in the sanctions for violators, and the policies of the institution include sanctions as serious as expulsion from the University.

1. **Expulsion** permanently severs the relationship of the student with the University.
2. **Indefinite suspension** severs the relationship of the student with the University with no date established for the student to return.
3. **Interim suspension** calls for the immediate removal of a student from the University when there is reasonable cause to believe that the alleged misconduct is of such a serious nature that his or her continued presence at the University is dangerous to the health and safety of the University community, its property or the educational mission.
4. **Suspension** severs the relationship of the student with the University for a finite period, the terminal date of which coincides with the official ending of an academic semester or summer session.
5. **Probation** is a period of close scrutiny of a student by the University during which his or her conduct is under review.
6. **Warning** is an official reprimand, which by formal written communication, gives official notice to a student that any subsequent offense against the student conducts regulations will likely result in more serious consequences.
7. In addition to the above, any one or a combination of the following may be recommended by a judicial hearing board and/or imposed by the Vice Chancellor for Student Affairs or The Dean of Students.
  - (a) Requirement of participation in community service
  - (b) Restitution where applicable
  - (c) Exclusion from University Residence Halls or Houses
  - (d) Official notice that conviction of any other violation of the **Student Conduct Regulations** could result in suspension from the University
  - (e) Prohibited from participating in organized groups or activities, and,
  - (f) Counseling if necessary

### **Complaint Procedure**

Any student, faculty member or staff member who believes he/she has been the victim of rape, sexual assault or other sexual offenses is encouraged to call the University Police Department (telephone number – 334-7675). To assist victims of such violent, aggressive and hostile crimes, the University Police Department requests that you do the following:

In the call to the Police Department; give as much detail as possible concerning your location, injuries and suspect information.

Remain dressed in the same clothing. Viable evidence linking the suspect to the crime can be found on the clothing.

Do not bathe or destroy any evidence.

Seek medical treatment for your own protection and the collection of evidence.

When possible, secure the area (dormitory room, vehicle, office, etc.) and do not let anyone interfere with evidence.

Rape and sexual assault can be both physically and emotionally damaging, thus, our University Police have the victim's well being as a primary concern and have been trained to treat the victim with respect, dignity and sensitivity. Also, Counseling Services and Student Health Services professionals are available at the University to help victims of sexual assault. These departments are especially well prepared to assist individuals with both their medical and emotional needs.

Sexual assault victims also have the option of calling the Greensboro Police Department (373-1000). When filing a formal report with the Greensboro Police Department, the University Police department should also be notified regarding the incident. The University Police cooperate fully with the city police in the investigation of campus crimes and therefore will be very resourceful in the search for suspect(s) in the campus setting. Also the University police work in close coordination with the Division of Student Affairs and its Counseling Services to provide assistance to victims of sexual assault.

Any campus official receiving a complaint about sexual assault with reason to believe a criminal offense has occurred will notify the University Police department for the necessary documentation and follow-up. Also, the reports of sexual assault that are made directly with the campus police will be coordinated with the appropriate departments and administrators of the University for action. However, the victim's identity and all information concerning the offense will be held in strict confidence by the authorities of this institution. Information regarding the name or address of a victim will not be communicated, broadcast, printed or published by the University without the consent of the victim, except as required in connection with a police investigation or by direction of a lawful court order.

### **PROCEDURES FOR ON-CAMPUS DISCIPLINARY ACTION IN CASES OF ALLEGED STUDENT TO STUDENT SEXUAL ASSAULT**

Sexual assaults include rape, attempted rape, and corruption of a minor, sexual battery, attempted sexual battery, and public indecency. Rape is defined as sexual penetration, no matter how slight, of the genital, anal, and/or oral openings of the victim by any part of the perpetrator's body or by the use of an object, without or against the victim's consent. Sexual battery is defined as intentionally touching the victim's intimate parts (primary genital area, including but not limited to the groin, inner thigh, buttock, or breast) without or against the victim's consent. This touching is either directly on the body or on the clothing covering that body part. It is also sexual battery if the victim is forced to touch the intimate parts of the perpetrator.

Sexual assault occurs when the act is intentional and is committed either by a) physical force, violence, threat or intimidation; b) ignoring the objections of another person; c) causing another's intoxication or impairment through the use of drugs or alcohol; or d) taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to consent.

These procedures cover cases involving student on student and students against non-students committed on university-owned property or leased property, at any University sanctioned

function, at the temporary or permanent local residence of a university student, faculty member, employee, or visitor, or in the city of Greensboro or Guilford County.

Any student who has been sexually assaulted may seek redress through the campus student judicial system if the accused is also an enrolled student at the University. Note: (Cases involving faculty/staff assault against a student are to be reported to the Director of Human Resources, the Affirmative Action Officer in Academic Affairs, or the University Police)

Such redress may be in conjunction with or in place of pressing charges with criminal authorities or filing civil actions. Once the report is made and forwarded to the Vice Chancellor for Student Affairs, an investigation will be initiated, with the consent of the victim. If, however, the incident poses a significant threat to the campus community, an investigation will ensue without the consent of the victim.

#### Limited expansion of off-campus jurisdiction

The university reserves the right to consider the behavior of students off campus when it is determined that the off-campus behavior interferes with the University and its educational mission.

North Carolina A&T State University adheres to the "Campus Sexual Assault Victim's Bill of Rights" which is a part of the Higher Education Amendments of 1992 as outlined below:

1. The accuser and accused must have the same opportunity to have others present at the campus judicial hearing.
2. Both parties shall be informed of the outcome of any disciplinary proceeding.

(Note: Compliance with this statement does not constitute a violation of FERPA. For purposes of this sentence, the outcome of the disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction imposed against the accused).

1. Victims shall be informed of their options to notify law enforcement.
2. Victims/Survivors shall be notified of counseling services.
3. Victims/Survivors shall be notified of options for changing academic and living situations.

Furthermore, if the accused is found guilty, the victim has the right to make a "victim impact statement" and to suggest an appropriate penalty.

Any student enrolled at North Carolina A&T who is accused of sexual assault, will be afforded full procedural due process in the investigation and adjudication of his/her case. This includes the right to the presumption of innocence until proven guilty and the privilege against self-incrimination. However, immediate suspension (prior to a hearing) of the accused will occur if the Vice Chancellor for Student Affairs concludes that the continued presence of the person at the University constitutes clear and present danger to the health or welfare of other members of the University Community.

A judicial hearing will then be scheduled by the Office of the Dean of Students as expeditiously as possible.

### **GUIDELINES IN REGARDS TO DISCIPLINARY PROCEDURE FOR SEXUAL ASSAULT**

1. Any student accused of sexual misconduct will receive notice of the complaint and a copy of the complainant's written statement, if any, no less than ten days before it is scheduled to go before an administrative hearing panel.
2. The accused student will be advised that he/she is presumed innocent and is expected to cooperate in the investigation of the complaint.
3. The prior sexual history of either party is not admissible in the hearing except testimony submitted by a party concerning his or her own sexual history. In addition, prior sexual history can not be used for finding of responsibility, however prior sexual history may be used in sanctioning.
4. Hearing procedures and sanctions are fully described in the Student Conduct section of the Student Handbook. The severity of the offense and the potential for subsequent harm to the vict/survivor or the community at large weigh heavily in sanctioning actions taken in such cases.
5. The victim's/survivor's identity and all information surrounding the case are held in strict confidence by all hearing authorities and service providers under the guidelines of FERPA; however, the university cannot guarantee confidentiality.

### **Sexual Harassment Policy**

The policy of North Carolina Agricultural and Technical State University is that all employees and students, regardless of race, color, religion, sex or national origin, shall be free from sexual harassment from any University employee or fellow student in connection with any University relationship or activity. No academic or personnel decision shall be made on the basis of a granting or denial of sexual favors. All employees and students are guaranteed the right to work and/or study in an environment free from sexual harassment. (See Appendix B – “Sexual Harassment Policy”.)

### **Firearms or Other Weapons (excerpts)**

*(North Carolina General Statute 14-269.2)*

“It shall be a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property or to a curricular or extracurricular activity sponsored by a school. However, this subsection does not apply to Bb gun, stun gun, air rifle, or air pistol.”

“It shall be a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored by a school. This subsection shall not apply to fireworks.”

“It shall be a Class I misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for

personal shaving), firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.”

For the purposes of this section a self-opening or switchblade knife is defined as a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance, and the above phrase "weapon of like kind" includes razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance.

This section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the national guard when called into actual services, officers of the State, or of any country, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties, any pupils who are members of the Reserve Officer Training Corps and who are required to carry arms or weapons in the discharge of their official class duties, and any *private institution of higher education when acting in the discharge of their duties.*

### **University Policy and Procedures Concerning Weapons on Campus**

The possession or use of a weapon on University or University-owned property is in violation of the student code of conduct and N.C. General Statute 14-269.2 pertaining to weapons on campus or other educational property. This policy does not contravene with any parts of NC General Statutes. The student is subject to both prosecution and punishment in accordance with state criminal law and criminal procedures and to disciplinary proceedings by the University.

The following penalties apply to the particular offense described:

- Students who possess (openly or concealed) or use a gun, rifle, pistol, or other firearms (Class I Felony Weapons) of any kind or powerful explosive (as defined in G.S. 14-284.1) on campus or to a campus related activity sponsored by the university will be suspended from enrollment for a period of not less than one year. For a second offense, any student will be expelled.
- Students who possess (openly or concealed) or use any weapon as described above in S14-269.2 (Class 1 Misdemeanor Weapons) will be suspended from enrollment for a minimum period of at least one semester. For a second offense, any student will be expelled.

### **Policy on Alcohol Use**

University policies concerning the possession and consumption of alcoholic beverages do not contravene federal, state, or municipal law regarding their purchase. A summary of certain sections of the North Carolina State Statute and local ordinances of alcoholic use is included below:

### **North Carolina Law**

North Carolina Alcoholic Beverage Control Laws make it unlawful for any person under twenty-one years of age to purchase, possess, or consume any alcoholic beverage.

- A. It is unlawful for any person to aid or abet an underage person in the purchase or attempted purchase of alcoholic beverages. *General Statute 18B-302(c)*.
- B. It is unlawful for any person knowingly to sell or give alcoholic beverages to an underage person. *General Statute 18- B-302 (a) (1)*.
- C. It is unlawful for any underage person to falsify a driver's license or other identification document in order to obtain alcoholic beverages. *General Status 18-B-302(e)*.
- D. It is unlawful for any person to permit use of his/her driver's license or any other identification document by an underage person to purchase or attempt to purchase alcoholic beverages. *General Statute 18B-302(f)*.
- E. It is unlawful for any person to consume any alcoholic beverage in or on any public street, right-of-way, sidewalk, alley, or property located inside or outside the Greensboro corporate limits. *Greensboro Code Sec. 4-13*.

### **UNIVERSITY POLICIES ON ALCOHOL**

All usages of alcoholic beverages will conform to existing state, local and University laws and policies.

- 1. There will be no consumption of alcoholic beverages in a motor vehicle while on University property or on University streets.
- 2. There will be no public display of alcoholic beverages.
- 3. Consumption of alcoholic beverages is restricted to students' rooms in residence halls only for those students of legal age.
- 4. Anyone who drinks alcoholic beverages will be held accountable for their behavior. Irresponsible drinking will not be accepted as an excuse for irresponsible behavior. Such behavior will result in judicial action and/or notification to parent or guardian.

### **UNIVERSITY DRUG POLICY**

North Carolina Agricultural and Technical State University strives to provide an educational environment that enhances and supports the intellectual process. The academic communities, including students, faculty and staff have the collective responsibility to ensure that this environment is conducive to healthy intellectual growth. The illegal use of harmful and addictive chemical substances poses a threat to the educational environment. Each member of the University family is reminded that in addition to being subject to University regulations and sanctions regarding illegal drugs, they are also subject to the laws of the State and of the nation. This policy has been developed in accord with The University of North Carolina Policy on Illegal Drugs, adopted by the Board of Governors January 15, 1988. It establishes the framework for programs designed to educate the campus community on the harmful effects of illegal substances and to assist afflicted persons in their efforts to become rehabilitated. It also provides guidance for punishing violators.

### **ZERO TOLERANCE FOR DRUGS POLICY**

- 1. Any student who is charged, as a first offense, with the use and/or is in possession of marijuana (or any other illegal drug) on campus will immediately lose campus housing privileges and will be required to appear at a hearing scheduled by the Office of the Dean of Students.
- 2. A second offense will result in immediate suspension from the University.
- 3. Felony possession of marijuana (or any other illegal drug) will result in immediate suspension from the University.

Any student convicted of possession or sale of a controlled substance under federal or state law may lose eligibility for Student Financial Aid assistance.

## **CELL PHONE USAGE POLICY IN THE CLASSROOMS**

The use of cell phones inside the classroom during the classroom period is prohibited. Please be advised that placing or receiving calls as well as conversing on cell phones during the conduct of a class shall be considered as disruptive behavior for students and may be subject to the **Policy On Disruptive Students in the Classroom**.

## **ENDANGERING ONE'S OWN PHYSICAL WELL BEING**

Students who endanger their own physical well being or disrupt the campus community, including threatening or attempting suicide, may be issued an interim suspension from the residence halls and/or the University. To be considered for reinstatement to the residence halls and/or the University, the student may be required to provide the Dean of Students Office with a Psychiatric Evaluation Form completed and signed by a licensed mental health professional indicating that the student is not a threat to him/herself or the campus community. Additionally, the parents, legal guardian, and/or Student are advised that threatening and/or attempting suicide is a violation of the Misconduct Prohibited by the University and may result in disciplinary action by the University.

## **STATE POLICY ON ILLEGAL DRUGS**

(Excerpts of Article 5, Chapter 90 of the North Carolina General Statutes)

### **Trafficking Illegal Drugs**

*For the illegal manufacture, sale, delivery, or possession with intent to manufacture, sell or deliver, of any controlled substance identified in Schedule I, N.C. General Statutes 90-90 (including, but not limited to, heroin, mescaline, lysergic acid, diethylamide, opium, cocaine, amphetamine, methaqualone), any student shall be expelled.*

- 1. For a first offense involving the illegal manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, of any controlled substance identified in Schedules III through VI, N.C. General Statutes 90-91, through 90-94, (including, but not limited to marijuana, phenobarbital, codeine) the minimum penalty shall be suspension from enrollment for a period of at least one semester or its equivalent. For a second offense, any student shall be expelled.*

### **Illegal Possession of Drugs**

*For a first offense involving the illegal possession of any controlled substance identified in Schedule I, N.C. General Statutes 90-89, or Schedule II, NC General Statues 90-90, the minimum penalty shall be suspension from enrollment for a period of at least one semester or its equivalent.*

- 1. For a first offense involving the illegal possession of any controlled substance identified in Schedules III through VI, N. C. General Statutes 90-91 through 90-94, the minimum penalty shall be probation, for a period to be determined on a case-by case basis. A person on probation must agree to participate in a drug education and counseling program, consent to regular drug testing, Chancellor or Chancellor's designee deems appropriate. Refusal or failure to abide by the terms of probation shall result in suspension from enrollment for any unexpected balance of the prescribed period of probation.*
- 2. For second or other subsequent offenses involving the illegal possession of controlled substances, progressively more severe penalties shall be imposed, including expulsion from the University.*

## **Parental Notification**

Pursuant to the 1974 FERPA law, parents or guardians/sponsors are sent written notification, without the student's consent' regarding students under the age of 21 who are in violation of campus and/or state alcohol and drug policies

## **Educational and Rehabilitation Programs**

The University shall establish and maintain a program of education designed to help all members of the University community avoid involvement with illegal drugs. This program shall emphasize these subjects:

1. The incompatibility of the use or sale of illegal drugs with the goals of the University.
2. The legal consequences of involvement with illegal drugs.
3. The medical implications of the use of illegal drugs.
4. The ways in which illegal drugs jeopardize an individual's present accomplishments and future opportunities.

The University shall provide information about drug counseling and rehabilitative services (campus-based or community-based) available to students and employees.

Persons who voluntarily avail themselves of these University services or programs are assured that applicable professional standards of confidentiality will be observed.

## **DISRUPTIVE CONDUCT POLICY**

North Carolina Agricultural and Technical State University has long honored the right of free discussion and expression, peaceful picketing and demonstrations, the right to petition and peaceable assembly. Without question these rights are a part of the fabric of this institution and they must remain secure. However, in a community of learning, willful disruption of the educational process, destruction of property, and interference with the rights of other members of the community cannot be tolerated. Accordingly, it shall be the policy of the University to deal with any such disruption, destruction or interference expediently without regard to race, sex, or political beliefs.

Any member of the University community who attempts to obstruct, or disrupt any normal operation or function of the University or any of its component institutions, engage, or incites others to engage, in individual or collective conduct which destroys or significantly damages any University property or which impairs or threatens impairment of the physical well being of any member of the University community, or which, because of its violent, forceful, threatening or intimidating nature or because it restrains freedom of lawful movement, or otherwise prevents any member of the University community from conducting his/her normal activities within the University, shall be subject to prompt and appropriate disciplinary action, which may include suspension or expulsion from the University.

The following illustrations of Disruptive Conduct are not intended to be exclusive:

1. Occupation of any University building or part thereof with the intent to deprive others of its normal use.
2. Blocking the entrance or exit of any University building or corridor or room therein with intent to deprive others of lawful use of said building or corridor or room.
3. Setting fire to or by any other means destroying or substantially damaging any University building or property, or the property of others on University premises.

4. Any possession of display of, or attempt or threat to use, for any unlawful purpose, any weapon, dangerous instrument, explosive, or inflammable material in any University building or on any University campus.
5. Prevention of or attempt to prevent by physical act, the attending, convening, continuation or orderly conduct of any University class or activity or of any lawful meeting or assembly in any University building or on any University campus.
6. Blocking normal pedestrian or vehicular traffic on or into any University campus.

### **Policy on Disruptive Students in the Classroom**

During instances when students exhibit disruptive behavior in the classroom, a faculty member should attempt to defuse the student (s)'s anger and/or resolve the problem while maintaining a tone of calmness and professional objectivity. If the situation appears to be escalating out of control, the faculty member should go to, or request that another student in the class go to, the nearest administrative office to contact campus security for assistance in bringing the matter under control. If a student (s)'s behavior in the classroom has been unreasonable or inappropriate, e.g., student used profanity, student threatened the faculty member or another student in the class, etc., then the faculty member may request that the student be administratively withdrawn from the course. This action is consistent with the attached policy of the University of North Carolina – UNC-GA Policy on Disruptive Behavior in the Classroom.

(See Appendix D)

Any student who is involved in classroom disruption is subject to receive penalties resulting from the Policy on Disruptive Students in the Classroom and also to be charged with disciplinary violation of Misconduct Prohibited by the University.

### **ZERO TOLERANCE FOR AGGRESSIVE BEHAVIOR POLICY**

Aggressive Behavior includes, but is not limited to:

- Intimidation/Harassment
  - Gang-like activity including hand gestures, color coding, etc.
  - Graffiti or destruction of campus property
  - Threatening Language
1. Any student who is charged with Aggressive Behavior, as a first offense, will immediately lose campus- housing privileges and be scheduled to go before a campus judicial board.
  2. A second offense will result in immediate suspension from the University.
  3. The University has jurisdiction over all behavioral infractions that occur in University facilities or on University property regardless of whether or not a student is prosecuted in a criminal court. Criminal charges and University charges are totally independent of each other.

### **EXCERPT FROM THE UNIVERSITY AIDS POLICY**

It is the policy of North Carolina A&T State University that persons infected with AIDS virus (whether active AIDS (HTLV-III), AIDS--Related Complex (ARC), or zero-positive to virus) will not be excluded from enrollment or employment, or restricted in their access to University services or facilities unless medically based judgments in individual cases establish that exclusion or restriction is necessary to the welfare of members of the University community.

For additional information and guidelines on handling HIV cases and/or AIDS education programs, contact Sebastian Health Center.