

18 March 2015

## UNC Charlotte Faculty Council

### Resolution on the Designation of Faculty and Graduate Teaching Assistants as "Responsible Employees" under Title IX

**Whereas** neither the Title IX legislation nor the U.S. Department of Education's legal guidance documents designate Faculty and Graduate Teaching Assistants (GTAs) as "Responsible Employees" under the law, instead leaving the designation of Responsible Employees up to individual schools, universities, and colleges; and

**Whereas** the designation of Faculty and GTAs as Responsible Employees depends on the unsupported and unverifiable supposition that students reasonably believe that Faculty and GTAs have "the authority to take action to redress sexual violence;" and

**Whereas** the designation of Faculty and GTAs as Responsible Employees would require them to report the details of sexual assaults to campus authorities even if the victim of assault does not wish to do so; and

**Whereas** the steps being recommended in order to prevent unwanted disclosures of sexual assault to Faculty and GTAs are premised on the conduct of unrealistic and arguably unethical verbal interactions between faculty and victims of sexual assault during times of great stress; and

**Whereas** the steps being recommended in order to prevent unwanted disclosures of sexual assault to Faculty and GTAs are further premised on unsupported assumptions about the lasting effectiveness of student training programs on the memory and behavior of victims of sexual assault during times of great stress; and

**Whereas** the designation of Faculty and GTAs as Responsible Employees would conflict with the promise of confidentiality explicit in the University's Safe Zone program; and

**Whereas** the Department of Education's "Take Back the Night Exception," which exempts the public disclosure of incidents of sexual assault in educational contexts from the reporting rule, should logically apply also to the teaching and mentoring relationship between students and their teachers in both classroom and non-public spaces; and

**Whereas** promising confidentiality to Counseling Center staff and exempting them from mandatory reporting requirements is explicitly intended to increase the reporting of sexual violence by its victims; and

**Whereas** that logic of increasing the reporting of sexual assault through the promise of confidentiality should also apply to Faculty and GTAs; and

**Whereas** the character, quality, and content of the teaching and mentoring relationship between teachers and students is one of the foundational elements of university life, and one of the most important areas of faculty responsibility and autonomy as guaranteed by Chapter VI of the *UNC Code*; and

**Whereas** the initial proposal to designate Faculty as Responsible Employees was developed in haste without any prior consultation with the affected parties, including Faculty, despite the availability of designated Faculty leaders for consultation under Article V, Section 2 of the Faculty Constitution;

**Therefore Be It Resolved** that the UNC Charlotte Faculty Council calls on the Office of Legal Affairs, the Chancellor, and the UNC Charlotte Board of Trustees to rescind the designation of UNC Charlotte Faculty and Graduate Teaching Assistants as Responsible Employees under Title IX; and

**Therefore Be It Also Resolved** that the Office of Legal Affairs should consult with the Faculty regarding other options concerning the roles, protocols, and responsibilities of that designation consistent with both Title IX legislation and with Chapter VI of the *UNC Code*.