



CHRISTIAN BROTHERS UNIVERSITY

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# SEXUAL MISCONDUCT POLICY

REVISED NOVEMBER 8, 2024

# INTRODUCTION

Members of the Christian Brothers University (“by the University”) community, guests and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. These policies are adopted in good faith in an attempt to comply with federal law, Title IX of the Higher Education Amendments of 1972, state law, and regulations.

*This Policy and procedures are effective October 4, 2023.*

**POLICY: Sexual Harassment, Including Sexual Assault, Dating Violence,  
Domestic Violence, Stalking, and Retaliation**

**I. GLOSSARY**

- Advisor means a person chosen by a party or appointed by the University to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing under Process A, if applicable.
- Complainant means an individual who is alleged to have been impacted by conduct that could constitute sexual harassment based on a protected class; or retaliation for engaging in a protected activity.
- Complaint (formal) means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.
- Confidential Resource means an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- Day means a business day when the University is in normal operation according to the Academic calendar.
- Education program or activity means locations, events, or circumstances where Christian Brothers University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Christian Brothers University.
- Final Determination: A conclusion made by a Decision-Maker by the standard of proof by the preponderance of evidence that the alleged conduct did or did not violate policy.
- Formal Grievance Process: a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- Grievance Process Pool includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all these roles (though not at the same time or with respect to the same case).
- Hearing Decision-Maker ("Decision-Maker") refers to the person who serves as the decision-maker at the hearing phase of the process.
- Investigator means the person or persons designated by the University with gathering facts about an alleged violation of this Policy and making relevancy determinations.
- Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sexual harassment and/or retaliation.
- Official with Authority (OWA) means an employee of the University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the University.
- Party or Parties include the Complainant(s) and Respondent(s), collectively.
- Process A Title IX means the Formal Grievance Process as outlined by Title IX Education Amendment of 1972.
- Process B Sexual Misconduct means any process designated by the University to apply when Process A does not.
- Remedies are post-finding actions determined by the Title IX Coordinator directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- Resolution means the conclusion of an informal or Formal Grievance Process.

- Respondent means an individual who is alleged to have engaged in conduct that violates this Policy. Respondents are presumed not responsible until found responsible by the decision-maker.
- Responsible Employee or Mandated Reporter means an employee of the University who is obligated to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator. This is not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials.
- Sanction means a consequence imposed by the decision-maker on a Respondent who is found responsible for violating this policy.
- Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section XV, for greater detail.
- Student means any individual who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.
- Title IX Coordinator (“Coordinator”) is the official designated by the University to ensure compliance with Title IX and the University’s prohibition on sexual misconduct. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for any task.
- Title IX Team refers to the Title IX Coordinator and any deputy coordinator.

## **II. RATIONALE FOR POLICY**

The University is committed to providing a learning, living, and working environment free from discrimination or harassment. Sexual Misconduct is an umbrella term that includes any discrimination based on sex, gender, sexual orientation, sexual harassment and retaliation.

The University complies with all state and federal discrimination laws, including but not limited to Title IX of the Higher Education Amendments of 1972, the federal law that prohibits discrimination on the basis of sex in education programs and activities; Title VII, the federal law that prohibits unlawful discrimination in employment, including that based on sex.

This policy and procedures are to provide a prompt, fair, and impartial process for those involved in an allegation of Sexual Harassment or retaliation. The University values to uphold the equal dignity of all members of its community.

## **III. APPLICABLE SCOPE**

The core purpose of this policy is the prohibition of sexual misconduct. When an alleged violation of this policy is reported, the allegations are subject to resolution using the University’s “Process A” or “Process B,” as determined by the Coordinator, and as detailed below.

This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

## **IV. TITLE IX COORDINATOR**

The Dean of Students serves as the Title IX Coordinator and oversees the implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating the University’s response and resolution of any concerns.

## **V. INDEPENDENCE AND CONFLICT-OF-INTEREST**

The Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a

specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Coordinator, contact the University's President at [president@cbu.edu](mailto:president@cbu.edu).

## VI. ADMINISTRATIVE CONTACT INFORMATION

**Inquiries or concerns regarding this policy and procedures, may be made to:**

- **Title IX Coordinator —Christian Brothers University**
  - **Brandi Williams**  
Grand River Solutions  
(650) 383-4753 ext. 169 | [bwilli48@cbu.edu](mailto:bwilli48@cbu.edu) • [www.cbu.edu/title-ix](http://www.cbu.edu/title-ix)
- **Deputy Title IX Coordinators**
  - **Theresa Jacques**  
Associate Vice President, Director of Human Resources  
Thomas Center-115  
Campus Box 92 | 650 East Parkway South, Memphis, TN 38104  
(901) 321-3474 • Fax: (901) 321-4430 | [tjacque2@cbu.edu](mailto:tjacque2@cbu.edu) • [www.cbu.edu/title-ix](http://www.cbu.edu/title-ix)
  - **Laura Nelson**  
Grand River Solutions  
(650) 383-4753 ext. 199 | [lnelson8@cbu.edu](mailto:lnelson8@cbu.edu) • [www.cbu.edu/title-ix](http://www.cbu.edu/title-ix)
  - Additionally, Christian Brothers University has determined that the following administrators are **Officials with Authority** to address and correct sexual harassment and/or retaliation. These individuals may also accept notice or complaints on behalf of the University:
  - **Dr. John Hargett**  
Interim Vice President for Academics  
Buckman Hall 204  
Campus Box #51 | 650 East Parkway South, Memphis, TN 38104  
[jhargett@cbu.edu](mailto:jhargett@cbu.edu) • (901) 321-3232
- **Inquiries may be made externally to:**
  - **Office for Civil Rights (OCR)**  
U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481 • Fax: (202) 453-6012 • TDD#: (877) 521-2172  
[OCR@ed.gov](mailto:OCR@ed.gov) • [www.ed.gov/ocr](http://www.ed.gov/ocr)
- **For complaints involving employees:**
  - **Equal Employment Opportunity Commission (EEOC)**  
1407 Union Avenue, 9th floor | Memphis, TN 38104 United States  
Phone: (800) 669-4000 • Fax: (901) 544-0111  
TTY: (800) 669-6820 • ASL Video Phone: (844) 234-5122  
Director: ..... Delner Franklin-Thomas  
Regional Attorney: ..... Faye Williams  
Office Hours | Monday through Friday, 8:00 a.m. to 4:30 p.m.

## HOW TO REPORT

Individuals are encouraged to access the University's Title IX Webpage for the most up to date information including the online reporting form. Individuals are encouraged to complete and submit the ["Discrimination Based on Sex and Sexual Misconduct Incident Report Form."](#)

Reports can be made in-person by telephone, by email, or in person directly to the Title IX Coordinator. Anonymous reports will be reviewed; however, the University's response will be limited.

## **VII. SUPPORTIVE MEASURES**

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter sexual harassment and/or retaliation.

The Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered the University will inform the Complainant that they may file a formal complaint with the University either at that time or in the future if they have not done so already.

The Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal any academic/occupational impact on the parties as possible.

The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program for employees
- Referral to community-based service providers
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass Bans or No Contact Orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

## **VIII. EMERGENCY REMOVAL**

The University can act to remove a respondent entirely or partially from its living, learning or working environment on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student, employee, or other individual justifies removal.



This risk analysis is performed by the Coordinator in conjunction with colleagues with the requisite skill. The Coordinator will make a recommendation to the area manager or relevant Dean.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Coordinator or relevant dean prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

## **IX. PROMPTNESS**

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Complaints can take 120 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer.

Should there be a delay, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed.

## **X. PRIVACY**

Every effort is made by the University to preserve the privacy of reports. The University shares information if there is a legitimate business or educational need to do so.

## **XI. JURISDICTION OF CHRISTIAN BROTHERS UNIVERSITY**

This policy applies to the education program and activities of the University, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of the University's community in order to exercise jurisdiction.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to University's educational program and/or impacts a substantial University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off campus sponsored program or activity. A substantial University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the University community, the Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

## **XII. TIME LIMITS ON REPORTING**

There is no time limitation on providing notice/complaints to the Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Coordinator.

## **XIII. ONLINE SEXUAL HARASSMENT AND/OR RETALIATION**

The policies of the University are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University's education program and activities or use the University's networks, technology, or equipment.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing, or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm a person.

## **XIV. POLICY ON NONDISCRIMINATION**

The University prohibits discrimination and harassment of any type and affords equal opportunities to students, employees, and applicants without regard to race, color, sex, sexual orientation, age, mental or physical disability, national origin, genetic information, or any other protected status, and any categories protected by state and local law in its educational programs or activities, including employment and admissions.

## **XV. DEFINITION OF SEXUAL HARASSMENT**

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, is an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

### **1. Sexual Harassment**

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and



- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the University's educational program or activity.
- g. Quid Pro Quo:
- h. when an employee of the University,
- i. conditions the provision of an aid, benefit, or service of the University,
- j. on an individual's participation in unwelcome sexual conduct.

## **2. Sexual assault, defined as:**

- a. Non-Consensual Sexual Contact-
  - Any physical contact with another person of a sexual nature without the person's consent.
  - includes but is not limited to the touching of a person's intimate parts (for example, genitalia, groin, breasts, or buttocks);
  - touching a person with one's own intimate parts without the person's consent; or
  - forcing a person to touch his or her own or another person's intimate parts.
  - This provision also includes "Fondling" as defined by the Clery Act.
- b. Non-Consensual Sexual Penetration-
  - Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body part without the person's consent; or
  - contact between the mouth of one person and the genitals or anus of another person without the person's consent.
  - This provision also includes "Rape, Incest, and Statutory Rape" as defined by the Clery Act.

## **3. Dating Violence, defined as:**

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

## **4. Domestic Violence, defined as:**

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Tennessee, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Tennessee.

**5. Stalking, defined as:**

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress. For the purposes of this definition—
    - I. Course of conduct means two or more acts, including, but not limited to,
    - II. acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    - III. Reasonable person means a reasonable person under similar circumstances
    - IV. and with similar identities to the Complainant.
    - V. Substantial emotional distress means significant mental suffering or
    - VI. anguish that may but does not necessarily require medical or other professional treatment or counseling.

**6. Sexual Exploitation, defined as:**

- a. Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.

Examples include:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-consensual photos, video, or audio of sexual activity;
- Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the activity was consensual;
- Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
- Knowingly transmitting an STD or HIV to another individual through sexual activity;
- Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
- Sexually-based bullying.

In the event a Respondent is found responsible or admits/accepts responsibility for violating University policy, the University reserves the right to impose any level of sanction, ranging from a warning up to and including suspension or expulsion/termination, for any offense under this policy.

- b. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is

incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both capable of giving consent and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## **XVI. RETALIATION**

Protected activity under this policy includes reporting an incident that may implicate this policy or participating in this process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The Coordinator will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Retaliation occurs when someone tries to interfere with a person's protected right to participate in this process or report sexual misconduct. Retaliation can be a material adverse

action by intimidation, threats, coercion, harassment and/or discrimination against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

## **XVII. PRIVATE RESOURCES**

All University employees (faculty, staff, and administrators) are expected to report actual or suspected sexual harassment or retaliation to the Coordinator.

## **XVIII. CONFIDENTIAL RESOURCES**

A list of confidential providers can be found on the Title IX website. Confidential resources are not required to share details or concerns with the University. Individuals are encouraged to ask whether employees are private or confidential prior to disclosing information. Failure to report an incident of sexual harassment or retaliation of which they become aware is a violation of University policy and may result in disciplinary action for failure to comply.

Below is a list of confidential providers. This list is not exhaustive and more details on these and other providers can be found on the Title IX website:

### **On-campus**

- The Counseling Center (available to students only)
- Health Services (available for students only)
- Employee Assistance Programs (available to employees only)

### **Off-campus (available to students and employees at own expense):**

- Licensed professional counselors and other medical providers
- the Shelby County Crime Victims & Rape Crisis Center
- the Crisis Center, 24-hour telephone service
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Counseling Center employees who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

## **XIX. REQUESTS FOR CONFIDENTIALITY/RELUCTANCY TO PARTICIPATE**

The University has designated the Coordinator and a small number of other University administrators to evaluate requests for confidentiality, that no action be taken against respondent as well as oversee the University's response to all reports of Title IX/Sexual Misconduct.

In the event that a Complainant has requested that their identity not be disclosed and/or that no action be taken, the Coordinator, in consultation with a small number of key University administrators, will weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. When weighing a request that no investigation be pursued or the complainant's identity not be disclosed, the Coordinator and the appropriate University administrators will consider a range of factors, including whether:

- The respondent is likely to commit additional acts of sexual or other violence, such as:
- There have been other sexual misconduct complaints about the same respondent;
- The respondent has a history of arrests or records from a prior school indicating a history of violence;
- The respondent threatened further sexual misconduct or other violence against the complainant or others;
- The sexual misconduct was committed by multiple respondents;
- The sexual misconduct was perpetrated with a weapon;
- The complainant is a minor;
- The respondent is a University employee;
- The University possesses other means to investigate the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- The complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular person or group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue conduct action against the respondent. If none of these factors are present, the University will likely respect the complainant's request.

If the University honors the Complainant's request for confidentiality or to not participate in an investigation, the University's ability to meaningfully investigate the incident or pursue conduct action against the respondent(s) may be limited.

In some cases, the University may not be able to honor a confidentiality request in order to adhere to its obligation to provide a safe, non-discriminatory environment for the CBU community. If the Coordinator determines that the University cannot maintain a complainant's confidentiality or has opted to proceed with the investigative process, the Coordinator will inform the complainant prior to starting an investigation.

If the University proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process.

## **XX. AMNESTY**

### **Students:**

The University encourages the reporting of all concerns regarding sexual misconduct. In some instances, students may be hesitant to report sexual misconduct because they fear they may be charged with other policy violations, such as underage alcohol consumption or violation of the University's drug policy. Because the University's primary interest is to protect the well-being of its community and remedy sexual misconduct, a person who reports such misconduct, either as a complainant, respondent, or a third-party witness, will not be subject to disciplinary sanction for a violation of the University's Code of Conduct unless the report was not made in good faith, or the violation was egregious.

### **Employees:**

The University may, at its discretion, offer an employee Complainant(s) amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

## **XXI. FEDERAL STATISTICAL REPORTING OBLIGATIONS**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a. All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b. Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c. VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with CBU Campus Police & Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include student affairs/student conduct staff, [campus law enforcement/public safety/security], local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.



## **XXII. FEDERAL TIMELY WARNING OBLIGATIONS**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **XXIII. RESOLUTION PROCESS FOR PROCESS A**

The procedures below comply with Title IX of the Higher Education Amendments of 1972, the federal law that prohibits discrimination on the basis of sex in education programs and activities; Title VII, the federal law that prohibits unlawful discrimination in employment, including that based on sex. The Coordinator determines whether conduct as alleged will be charged as Title IX sexual harassment (Process A) or Non-Title IX sexual misconduct (Process B). The processes outlined below will discuss Process A in detail. Process B will mirror Process A except where specified otherwise.

### **RESOLUTION PROCESS FOR PROCESS A**

Under Process A Title IX, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or
3. "Sexual assault" as defined by the Clery Act and "dating violence," "domestic violence," and "stalking" as defined by the VAWA Amendments.

#### **1. Notice/Complaint**

Upon receipt of a complaint or notice to the Coordinator of an alleged violation of the Policy, the Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take.

The Coordinator will initiate at least one of three responses:

- a. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- b. An informal resolution (upon submission of a formal complaint); and/or
- c. A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

Process A will be used to determine whether the Policy has been violated. If so, the Coordinator will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

#### **2. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment. The steps in an initial assessment can include:

- The Coordinator will attempt to meet with the Complainant to review reporting options, rights, provide supportive resources and to assess the appropriateness of supportive measures.

- The Coordinator will seek to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Coordinator determines whether factors exist to justify the Coordinator filing a formal complaint on behalf of the Complainant and proceed accordingly.
- If a formal complaint is received, the Coordinator assesses its sufficiency and will work with the Complainant to make sure it is correctly completed.
- The Coordinator reaches out to the Complainant to offer supportive measures.
- The Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - In cases where the Respondent is an employee of the University and the Complainant is a student, informal resolution will not be an option for the involved Parties. The only options would be a supportive/remedial response for the Complainant or a Formal Grievance Process.
  - If a Formal Grievance Process is preferred, the Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
    - a culture/climate concern, based on the nature of the complaint.
- If the Coordinator determines that Title IX does not apply, they will “dismiss” that aspect of the complaint, if any. The Coordinator will then assess which policies may apply and may refer the matter for resolution under Process B, if applicable. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit the University’s authority to address a complaint with an appropriate process and remedies.

#### **A. VIOLENCE RISK ASSESSMENT (“VRA”)**

Violence Threat Assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Behavioral Intervention Team (BIT)/CARE team members.

In many cases, the Coordinator may determine that a VRA should be conducted as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Whether the Coordinator should conduct an emergency removal of a Respondent on the basis of immediate threat to physical health/safety of the Complainant and/or the University community;
- Whether the Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;

- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful in cases of student on student or employee on employee;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order is needed.

## **B. DISMISSAL (MANDATORY AND DISCRETIONARY)**

### **Mandatory**

The Coordinator must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University.

### **Discretionary**

The Coordinator may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing if:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

## **C. RIGHTS TO AN ADVISOR**

**For 'Process A' Title IX Complaints:** Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing at the party's own expense. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the Sexual Misconduct process, including providing questions, suggestions, and guidance to the party, but may not actively participate in the process except to conduct cross-examination at the hearing as outlined in the Resolution/Hearing section below. If a party

chooses not to use an advisor during the investigation, the University will provide an advisor for the purpose of conducting cross-examination on behalf of the relevant party. All communication during the Title IX process will be between the University and the party and not the advisor. The University will copy the party's advisor prior to the finalization of the investigation report when the University provides the parties the right to inspect and review directly related information gathered during the investigation. With the party's permission, the advisor may be copied on all communications.

**For 'Process B' Sexual Misconduct Complaints:** Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing at the party's own expense. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the Sexual Misconduct process but may not actively participate in the process. All communication during the Sexual Misconduct process will be between the University and the party and not the advisor. With the party's permission, the advisor may be copied on all communications.

### **3. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below.

#### **A. INFORMAL RESOLUTION**

At any time during the investigation of a Formal Complaint, the Complainant and a Respondent may choose to resolve a Formal Complaint through the Informal Resolution Process. Both parties must agree to participate in the Informal Resolution Process. Informal Resolution may include conflict mediation or a restorative conference with a University student or employee. Informal Resolution may be used in any case, except cases involving allegations of Title IX Sexual Misconduct by a student against a University employee or by the University employee against a student.

Either Party may choose to end the Information Resolution Process at any time and commence or resume the Formal Grievance Process.

Because the outcome of the Informal Resolution Process is mutually developed and agreed upon by the parties, an appeal of the process and its result is not permitted. If the parties are unable to agree on a voluntary resolution during the Information Resolution Process, the matter will be referred by the Coordinator for investigation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Coordinator.

#### **B. RESPONDENT ACCEPTS RESPONSIBILITY FOR ALLEGED VIOLATIONS**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the formal process will be paused, and the Coordinator will determine whether Informal Resolution can be used according to the criteria above.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will

resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the University community.

#### **4. Formal Grievance Process: Notice Of Investigation And Allegations**

The Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an

Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University’s policy on retaliation,
- Information about the privacy of the process,
- Information on the right to have an Advisor,
- A statement informing the parties that the University’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by University-issued email or other means. Once emailed or sent the notice will be presumptively delivered.

#### **5. Resolution Timeline**

The University will make a good faith effort to complete the entire resolution process within 120 business days, which can be extended as necessary for appropriate cause by the Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## 6. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## 7. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence. The Investigator is a neutral fact finder who determines relevancy.

All parties will be given a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant;
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures;
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated;
- Assist the Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation;
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties;
- Meet with the Complainant to finalize their interview/statement, if necessary;
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations;
- Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings;
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose;
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary;
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions;
- Complete the investigation promptly and without unreasonable deviation from the intended timeline;



- Provide regular status updates to the parties throughout the investigation;
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding;
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical, or documentary evidence will be included;
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Decision-Maker does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The Investigator(s) may make revisions and incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

## **8. Role and Participation of Employee Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## **9. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

## **10. Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## **11. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Coordinator will refer the matter for a hearing.

The hearing will typically not be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker–unless all parties and the Decision-Maker agree to an expedited timeline.

## **XXIV. HEARING PROCESS**

### **12. Hearing Decision-Maker**

There will be a single Decision-Maker to preside over the hearing. The Decision-Maker will not have had any previous involvement with the investigation.

### **13. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-Maker determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the University uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker at the sanction stage of the process only if a determination of responsibility is reached.

After post-hearing deliberation, the Decision-Maker will render a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### **14. Notice of Hearing**

Typically, no less than ten (10) business days prior to the hearing, the Coordinator or the Decision-Maker will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The Coordinator or the Decision-Maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options are preferable and will be offered to the parties and witnesses.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Coordinator at least five (5) business days

prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias. This must be raised with the Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- Where a party or a witness is unavailable, unable, or otherwise unwilling to participate in the hearing, including being subject to cross-examination, the hearing may be held in their absence. The Decision-Maker shall not draw an adverse inference against the party or witness based solely on their absence from the hearing or refusal to be subject to cross examination.
- For extenuating circumstances, the Decision-Maker may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-Maker about the matter unless they have been provided already.
- An invitation to each party to submit to the Decision-Maker an impact statement pre-hearing that the Decision-Maker will review during any sanction determination.
- An invitation to contact the Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

## **15. Pre-Hearing Preparation**

The Decision-Maker, after consultation with the parties, Investigator(s) and/or Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report, to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Decision-Maker assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Decision-Maker do not assent to the admission of evidence newly offered at the hearing, the Decision-Maker may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given the name of the Decision-Maker at least ten (10) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Coordinator within two (2) days of been notified of the hearing. Decision-Makers will only be removed if the Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision-Maker at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-Maker.

## **16. Pre-Hearing Meetings**

The Decision-Maker may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Decision-Maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Decision-Maker must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Decision-Maker, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Decision-Maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

The Decision-Maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision-Maker may consult with legal counsel and/or the Coordinator or ask either or both to attend pre-hearing meetings.

## **17. Hearing Procedures**

At the hearing, the Decision-Maker has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Decision-Maker, the hearing facilitator (may be the Coordinator), the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services. The Decision-Maker may have a person to assist them in their role such as a note taker.

The Decision-Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-Maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Maker and the parties and will then be excused.

## **18. Consolidation of Formal Complaints**

Formal Complaints filed by a Complainant against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, may be consolidated into one Formal Complaint provided the allegations of Title IX Sexual Misconduct arise out of the same facts or circumstances.

## **19. The Order of the Hearing**

The Decision-Maker explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-Makers on the basis of bias or conflict of interest. The Decision-Maker will rule on any such challenge unless the Decision-Maker is the individual who is the subject of the challenge, in which case the Coordinator will review and decide the challenge.

The Decision-Maker then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative

elements of the hearing process are managed by the Coordinator or a facilitator designated by the Coordinator. The facilitator may attend to handle: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensure recording and/or virtual conferencing technology is working as intended; copying and distribution of materials to participants, as appropriate, etc.

## **20. Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Maker and the parties (through their Advisors under Process A and through the Decision-Maker under Process B). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Maker should ask the Investigators their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-Maker will direct that it be disregarded.

## **21. Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-Maker. The parties/witnesses will submit to questioning by the Decision-Maker and then by the parties through their Advisors ("cross-examination") under Process A or through the Decision-Maker under Process B.

All questions are subject to a relevance determination by the Decision-Maker.

The Advisor ("Process A") or each party ("Process B") will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision-Maker upon request if agreed to by all parties and the Decision-Maker), the proceeding will pause to allow the Decision-Maker to consider it (and state it if it has not been stated aloud), and the Decision-Maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-Maker may invite explanations or persuasive statements regarding relevance with the Parties, if the Decision-Maker so chooses. The Decision-Maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-Maker has final say on all questions and determinations of relevance. The Decision-Maker may consult with legal counsel on any questions of admissibility. The Decision-Maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain any arguments from the Advisors on relevance once the Decision-Maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Decision-Maker may elect to address those issues, consult with legal counsel, and/or refer them to the Coordinator, and/or preserve them for appeal. If bias is not in question at the hearing, the Decision-Maker should not permit irrelevant questions that probe for bias.

## **22. Refusal To Submit To Cross-Examination And Inferences**

Where a party or a witness is unavailable, unable, or otherwise unwilling to participate in the hearing, including being subject to cross-examination under Process A, the Decision-Maker shall not draw an adverse inference against the party or witness based solely on their absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-Maker may consider all evidence it deems relevant, may rely on any relevant statement as long as

the opportunity for cross-examination is afforded to all parties through their Advisors under Process A, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor.

### **23. Advisors as Witnesses**

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker

### **24. Cross-Examination During Hearing by Advisors Under Process A**

For complaints under Process A Title IX, a form of indirect questioning called cross-examination is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented.

### **25. Expectations of Advisors**

It is expected for an Advisor to adjust their schedule to allow them to attend University meetings.

### **26. Recording Hearings**

Hearings are recorded by the Decision-Maker for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-Maker, the parties, their Advisors, and any other appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the University.

### **27. Deliberation, Decision-Making, and Standard of Proof**

The Decision-Maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility of one or more of the allegations, the Decision-Maker may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Decision-Maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-Maker may – at their discretion – consider the statements, but they are not binding.

The Decision-Maker will then prepare a written determination and deliver it to the Parties, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report must be submitted to the Parties within fifteen (15) business days of the end of deliberations, unless the Coordinator grants an extension to the Decision-Maker due extenuating circumstances. If an extension is



granted, the Decision-Maker will share the new deadline date of when the finalized Notice of Outcome will be shared with the Parties.

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

## **28. Statement of the Rights of the Parties (See Appendix A)**

## **29. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- a. The nature, severity of, and circumstances surrounding the violation(s)
- b. The Respondent's disciplinary history
- c. Previous allegations or allegations involving similar conduct
- d. The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- e. The need for sanctions/responsive actions to prevent the future recurrence of
- f. sexual harassment and/or retaliation
- g. The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- h. The impact on the parties
- i. Any other information deemed relevant by the Decision-Maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Required Psychological Assessment:** A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects. Students will need to complete any and all recommendations from the assessment.
- **Probation:** A written reprimand for violation of University policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the University. Transcript will be noted: "Non-academic suspension. Eligible for readmission after [designated time]."
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events. This sanction will be noted permanently as a "Non-academic dismissal, ineligible for readmission" on the student's official transcript.
- **Withholding Diploma:** The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

- **Revocation of Degree:** The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## **b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination
- **Other Actions:** In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

## **30. Withdrawal Or Resignation While Charges Pending**

**Students:** If a student has an allegation pending for violation of the Policy, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student Respondent decide to not participate in the resolution process or permanently withdraws from the University before or during the grievance process, the process will proceed absent their participation to a reasonable resolution.

The University will also continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all campuses of the University. A hold will be placed on their ability to be readmitted. They may also be barred from the University's property and/or events. A notation will be made in the student's Title IX file and will be reviewed upon the student attempting to return to the University at a later time. The University then reserves the right to re-open the matter for possible resolution prior to the student being readmitted.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to the University unless and until all sanctions have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the process will proceed absent their participation to a reasonable resolution.

The University will also continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University or any campus of the University, and the records retained by the Coordinator and the Human Resources office will reflect that status. Human Resources reserves the right to disclose the unresolved allegations to prospective employers.

## **31. Appeals**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Coordinator within five (5) days of the delivery of the Notice of Outcome. Failure to abide by this timeline results in immediate dismissal of appeal.

A single Appeal Officer to review the appeal. The Appeal Officer will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- C. The Coordinator, Investigator(s), or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Officer will notify the other party(ies) and their Advisors, the Coordinator, and, when appropriate, the Investigators and/or the original Decision-Maker.

The other party(ies) and their Advisors, the Coordinator, and, when appropriate, the Investigators and/or the original Decision-Maker will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-Maker, as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than five (5) business days, barring

exigent circumstances. The Appeal Officer will apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

Any emergency removals or other interim measures implemented prior to or during the Formal Grievance Process will stay in effect until the Appeal Officer renders an outcome of the appeal.

The University reserves the right to place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

#### **c. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the Appeal Officer to substitute their judgment for that of the original Decision-Maker merely because they disagree with the finding and/or sanction(s).
- The Appeal Officer may consult with the Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-Maker for reconsideration. Other appeals may be remanded at the discretion of the Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-Maker (as in cases of bias), the appeal may order a new hearing with a new Decision-Maker.
- The results of a remand to the Decision-Maker cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **32. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- a. Referral to counseling and health services
- b. Referral to the Employee Assistance Program
- c. Education to the individual and/or the community
- d. Permanent alteration of housing assignments
- e. Permanent alteration of work arrangements for employees
- f. Provision of campus safety escorts
- g. Climate surveys
- h. Policy modification and/or training
- i. Provision of transportation accommodations
- j. Implementation of long-term contact limitations between the parties
- k. Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

### **33. Failure To Comply With Sanctions And/Or Remedies**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-

Maker (including the Appeal Officer).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a respondent's official transcript or employee file.

A student's suspension will only be lifted when compliance is achieved to the satisfaction of the Coordinator.

### **34. Recordkeeping**

The University will maintain case files or records for a period of [at least] seven years.

### **35. Disability Accommodations In the Resolution/Hearing Process**

The University is committed to providing language assistance or reasonable accommodations and support to qualified individuals with disabilities to ensure equal access to the University's resolution process.

Anyone needing such accommodations or support should contact the Disability Services Coordinator (Students) and Human Resources (Employees) who will review the request.

### **36. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Coordinator may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.



## APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have the University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment or retaliation to both on-campus and off-campus authorities.
- The right to be informed by the University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement and/or other University officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; [legal,] student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a University-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of sexual harassment and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from University staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)

- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options.
- The right to have University maintains such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-Maker to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-Maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-Maker, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-Maker who have received relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have the University compel the participation of faculty and staff witnesses.
- The right to the use of the preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-Maker following a determination of

responsibility for any allegation, but prior to sanctioning.

- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.



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