



UNIVERSITY OF
BRIDGEPORT

POLICY AND PROCEDURE

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| Title: | Discrimination, Harassment, and Retaliation Policy |
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POLICY STATEMENT:

The University of Bridgeport (the "University") is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. Consistent with the University's commitment to equal opportunity and non-discrimination, and in compliance with federal and state civil rights laws and regulations, the University strictly prohibits discrimination and harassment. Prohibited conduct includes discrimination and harassment based on protected characteristics, such as race, color, sex, pregnancy, religion, creed, ethnicity, national origin, disability, age, sexual orientation, gender identity, veteran or military status, predisposing genetic characteristics, victim status¹ or any other protected category under applicable local, state, or federal law. Prohibited conduct also includes retaliation against a person for the good faith reporting of these forms of conduct or participation in an investigation or proceeding under this Policy.

Any member of the campus community who acts to deny, deprive, or limit the educational, employment, residential, or social access, benefits, or opportunities of any member of the campus community, including guests or visitors, based on their protected characteristics, is subject to sanctions under this Policy. Upon notice, the University will appropriately address and remedy all allegations per the resolution procedures described herein. Vendors, guests, visitors, and other non-campus members who engage in discriminatory actions within University programs, activities, or on University property are not subject to the Grievance Processes under this Policy. However, they may be subject to actions that limit their access and involvement with University programs as the result of such misconduct.

The University is committed to stopping, preventing, and remedying discrimination, harassment, and retaliation and addressing any violations of this Policy. Accordingly, the University has created two grievance processes to accomplish this task; the Title IX Grievance Process and the Discrimination, Harassment, and Retaliation (DHR) Grievance Process. The Title IX Grievance Process is designed to address conduct that falls under the Title IX Regulation's definition of sexual harassment. In contrast, the DHR Grievance Process provides a process for the resolution of all complaints of violations of this Policy that fall outside Title IX covered conduct. These processes are explained below.

PROCEDURE DETAILS:

The procedures described in Appendix B and Appendix C of this policy govern the implementation of the Discrimination, Harassment, and Retaliation Policy. When a violation of the policy occurs, students, faculty, staff, and visitors may file a report with the University's Title IX and Equity Coordinator or may fill out the incident report form found at: https://cm.maxient.com/reportingform.php?UnivofBridgeport&layout_id=5.

This policy is subject to change. Should the policy change, the University will apply the policy in place at the time of the alleged misconduct but will adjudicate using the procedures in place at the time of the notice/complaint.

¹ The University prohibits discrimination based on an individual's status as a victim of domestic violence, stalking, or sex offenses.

PUBLISH POLICY STATEMENT (CLICK ON BOX NEXT TO OPTION-SELECT ALL THAT APPLY):

☒ UNIVERSITY CATALOG

☒ STUDENT HANDBOOK

☒ FACULTY HANDBOOK

☒ STAFF HANDBOOK

DEFINITIONS:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to a resolution process, advise the party on that process, and conduct questioning for the party at the hearing, if any.
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy.
- **Confidential Resource.** An Employee who is not required to report when given Notice of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct under the Policy (irrespective of Clery Act Campus Security Authority status).
- **Day.** A business day when the University is in normal operation. All references to days in the Policy refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the Policy and/or assigns sanctions.
- **Directly Related Evidence.** Evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and which cannot be relied upon by the Decision-maker. Compare to Relevant Evidence below.
- **Director of Title IX and Equity Compliance.** The person with primary responsibility for overseeing and enforcing the Discrimination, Harassment, and Retaliation Policy. As used throughout the Policy and procedures, the "Director of Title IX and Equity Compliance" also includes their designee(s).
- **Education Program or Activity.** Locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct occurs. Also includes any building owned or controlled by a student organization that the University officially recognizes.
- **Employee.** A person employed by the University, either full- or part-time, including Student-Employees when acting within the scope of their employment
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate the Policy.
- **Finding.** A conclusion by the standard of evidence that the conduct did or did not occur as alleged (as in a "finding of fact").
- **Formal Complaint.** A document submitted or signed by a Complainant or signed by the Title IX and Equity Coordinator alleging a Respondent engaged in Discrimination, Harassment, Retaliation, and/or Prohibited Conduct under the Policy and requesting that the University investigate the allegation(s).
- **Informal Resolution.** A Resolution the Parties agree to and the Title IX and Equity Coordinator approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator's written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) the University authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Nondiscrimination Team.** The Director of Title IX and Equity Compliance, Title IX and Equity Coordinator, any deputy coordinators, and any member of the Resolution Process Pool.

- **Notice.** When an Employee, Student, or third party informs the Title IX and Equity Coordinator or other Official with Authority of the alleged occurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.
- **Official with Authority (OWA).** A University Employee who has responsibility to implement responsive measures for Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the University's behalf.
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a complaint.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth or termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Process A.** The Title IX Grievance Process detailed in the procedures in Appendix B.
- **Process B.** The Discrimination, Harassment, and Retaliation Grievance Process detailed in Appendix C that only applies when Process A does not, as determined by the Title IX and Equity Coordinator.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against Discrimination and Harassment by law or University policy.
- **Reasonable Person.** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a complaint.
- **Remedies.** Typically, post-Resolution actions are directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's Education Program or Activity.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Discrimination based on a Protected Characteristic, Harassment, or Retaliation for engaging in a protected activity under the Policy, or Other Prohibited Conduct.
- **Responsible Employee.** A University Employee who is obligated by Policy to share knowledge, Notice, and/or reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct with the Title IX and Equity Coordinator.²
- **Resolution.** The result of an Informal Resolution or Formal Grievance Process.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the Policy.
- **Sex.** Birth Sex (under Title IX). Outside Title IX, Sex can include gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- **Student.** Any individual who has accepted an offer of admission, or who is registered for or enrolled in for-credit or non-credit-bearing coursework, and who maintains an ongoing educational relationship with the University.
- **Title IX and Equity Coordinator.** At least one official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.
- **Title IX Grievance Process.** "Process A," the University's method of formal resolution to address Title IX Sexual Harassment allegations, which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act amendments to the Clery Act (34 C.F.R. § 668).

EXCLUSIONS:

N/A

OFFICES DIRECTLY AFFECTED BY THE POLICY:

All University; no person or office is exempt from the provisions of this policy

² 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, though these responsibilities may overlap with those who have mandated reporting responsibility under the Policy.

HISTORY:

Policy created and approved June 2022. Policy edited and approved August 2022. Policy edited and approved August 2023. Policy edited and approved February 2025. Policy edited June 2025.

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| EFFECTIVE DATE: | June 27, 2022 |
| RESPONSIBLE OFFICE (ONLY ONE): | Office of Civil Rights Compliance |
| REVIEW DATE: | Annually |

APPENDIX:

Appendix A—Discrimination, Harassment, and Retaliation Policy

Appendix B—Title IX Grievance Process

Appendix C—Discrimination, Harassment, and Retaliation Grievance Process

Appendix A—Discrimination, Harassment, and Retaliation Policy

1. Purpose

The University is committed to providing an educational and employment environment that is free from Discrimination based on Protected Characteristics, Harassment, and Retaliation for engaging in protected activity.

The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goal of fairness in all aspects of the Education Program or Activity, the University has developed policies and procedures that provide a prompt, equitable, and impartial resolution of allegations of Protected Characteristic Discrimination, Harassment, or Retaliation.

2. Scope

The Policy applies to all Employees, Students, and other individuals participating in or attempting to participate in the University's Education Program or Activities, including education and employment.

The Policy prohibits all forms of Discrimination on the basis of the Protected Characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with the Policy.

3. Notice of Nondiscrimination

The University seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting Discrimination in private post-secondary education institutions.

The University does not discriminate against any Employee, applicant for employment, Student, or applicant for admission on the basis of:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Creed
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity and ethnic characteristics
- Family responsibilities
- Gender identity/expression³
- Genetic information (including family medical history)
- Marital status
- National origin (including shared ancestry)
- Political belief or affiliation
- Pregnancy or related conditions
- Race
- Religion

³ Complaints of Harassment or Discrimination on the basis of this Protected Characteristic are addressed exclusively as Process B complaints, outside of Title IX.

- Sex (including sex characteristics and sex stereotypes)
- Sexual orientation⁴
- Source of income/social class status
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- or any other Protected Characteristic under applicable federal, state, or local law, including protections for those opposing Discrimination or participating in any resolution process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency

The Policy covers nondiscrimination in both access to educational opportunities and employment. Therefore, any member of the University community whose acts deny, deprive, or limit the educational or employment, residential, and/or social access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived Protected Characteristic(s) listed above, is in violation of the Policy.

The University will promptly and effectively address any such Discrimination of which it has Notice using the applicable resolution process in the Procedures reflected in Appendix B and Appendix C.

4. **Nondiscrimination Team Contacts**

The University has appointed the Nondiscrimination Team, comprised of the following individual(s), to coordinate the University's compliance with federal, state, and local civil rights laws and ordinances:

For Discrimination and Harassment allegations:

Markus Lake, M.Ed

Title IX and Equity Coordinator

203-576-45-34

mlake@bridgeport.edu

For disability-based allegations:

Alden Minick, J.D.

Director of Title IX and Equity Compliance

860-727-6741

aminick@bridgeport.edu

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating the University's timely, thorough, and fair response; investigation and resolution of all alleged prohibited conduct under the Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Discrimination, Harassment, and Retaliation.

The University recognizes that allegations under the Policy may include multiple forms of Discrimination and Harassment as well as violations of other University policies; may involve various combinations of Students, Employees, and other members of the University community; and may require the simultaneous attention of multiple University departments. Accordingly, all University departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable University policies, to provide uniform, consistent, efficient, and effective responses to alleged Discrimination, Harassment, or Retaliation.

⁴ Complaints of Harassment or Discrimination on the basis of this Protected Characteristic are addressed exclusively as Process B complaints, outside of Title IX.

5. External Contact Information

Concerns about the University's application of the Policy and compliance with certain federal civil rights laws may be addressed 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
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

The Connecticut Commission on Human Rights and Opportunities (CT CHRO)
450 Columbus Boulevard
Hartford, CT 06103
Phone: 860-541-3400
CT Toll Free: 1-800-477-5737
Fax: 860-241-4869
TDD: 860-541-3400

U.S. Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203
Phone: 1-800-669-4000
Fax: 617-565-3196
Web: <https://www.eeoc.gov/>

6. Required Reporting and Confidential Resources

All University Faculty and Employees (including Student-Employees), other than those deemed Confidential Employees, are Responsible Employees and are expected to promptly report all known details of actual or suspected Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal University action.

Complainants may want to carefully consider whether they share personally identifiable details with Responsible Employees, as those details must be shared with the Title IX and Equity Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Responsible Employee can connect them with resources to report alleged crimes and/or Policy violations, and these Employees will immediately pass reports to the Title IX and Equity Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

A. Confidential Resources

To enable Complainants to access support and resources without filing a Formal Complaint, the University has designated specific employees as Confidential Resources. Those designated by the University as Confidential Resources are not required to report actual or suspected Discrimination, Harassment, Retaliation, or Other Prohibited Conduct in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX and Equity Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or University official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- On-campus Victim Advocates
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination

Institutional counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Employees who have confidentiality as described above, and 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, patient, or parishioner.

Failure of a Responsible Employee, as described above, to report an incident of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a Respondent is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under the Policy.

A Responsible Employee who is themselves a target of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct under the Policy is not required to report their own experience, though they are encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with the University without concern that Policy will require them to disclose information to the institution without permission. Such individuals include:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic Violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

7. Disability-Based Complaints

Complaints related to disability status and/or provision of accommodations are addressed using the procedures in the Student Accessibility Grievance Policy or Employee Accessibility Grievance Policy. However, allegations of Discrimination or Harassment on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under the Discrimination, Harassment, and Retaliation Grievance Procedure.

For details relating to disability accommodations in the University's resolution process, contact the Title IX and Equity Coordinator.

8. Jurisdiction

The Policy applies to the University's Education Program and Activities, to conduct that takes place on property owned or controlled by the University, at University-sponsored events, and in any building owned or controlled by a University-recognized student organization.

The Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the University's Education Program or Activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial University interest.

A substantial University interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any federal, state, or local law
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any Student, Employee, or other individual
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder
4. Any situation that substantially interferes with the University's educational interests or mission

For disciplinary action to be issued for Title IX Sexual Harassment under the Policy, the Respondent must be a University Student or Employee at the time of the Formal Complaint. For allegations other than Title IX Sexual Harassment, the University may issue disciplinary action under the Policy if the Respondent was a University Student or Employee at the time of the alleged misconduct. If the Respondent is unknown or is not a member of the University community, the Title IX and Equity Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The University can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

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

When a party is participating in a dual enrollment/early college program, the University will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the Notice under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the Title IX and Equity Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX and Equity Coordinator may be able to assist and support a Student or Employee Complainant who experiences Discrimination in an externship, study abroad program, or other environment external to the University where Sexual Harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a Student or Employee's education or employment environment, those effects can often be addressed remedially by the Title IX and Equity Coordinator if brought to their attention.

9. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct. Supportive measures are non-

disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, 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 and/or the University's educational environment and/or to deter Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

The Title IX and Equity Coordinator promptly makes supportive measures available to the Parties upon receiving Notice or a Formal Complaint. At the time that supportive measures are offered, if a Formal Complaint has not been filed, the University will inform the Complainant, in writing, that they may file a Formal Complaint with the University either at that time or in the future. The Title IX and Equity Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the Parties as possible. The University will implement measures in a way that does not unreasonably burden another 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
- Referral to community-based service providers
- Student financial aid counseling
- 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 assistance
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) 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 Title IX and Equity Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate Student or Employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing resolution process under the Policy.

10. Online Harassment and Misconduct

University policies are written and interpreted broadly to include online manifestations of any of the prohibited behaviors below, when those behaviors occur in or have an effect on the University's Education Program or Activities or when they involve the use of University networks, technology, or equipment.

Although the University may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

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, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University community.

11. Inclusion Related to Gender Identity/Expression

The University strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse Students and Employees.

The University does not tolerate Discrimination and Harassment on the basis of gender identity or expression. If a member of the University community believes they have been subjected to Discrimination or Harassment under the Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, the University supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

The University is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The University will administratively address issues some Students and Employees, including those identifying as intersex, nonbinary, transgender, agender, two-spirit, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the University's processes and policies.

The Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, nonbinary, transgender, transitioning, agender, two spirit, and gender-diverse Students and Employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all Students equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all Employees equal access to employment opportunities and work, service, or health-related facilities
- Encouraging all Students and Employees to respect the pronoun usage and identities of all University community members

The University uses a number of interventions to address concerns that are raised related to gender-based Discrimination or Harassment, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the rights of members of the community to be free from gender-identity Discrimination and those exercising their right to religious freedom, the University will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the University will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

12. Prohibited Conduct

Students and Employees are entitled to an education and employment environment that is free of Discrimination, Harassment, and Retaliation. The Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited Discrimination, Harassment, and Retaliation that are also prohibited under University policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of University policy, though supportive measures will be offered to those impacted

All offense definitions encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity between incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, behavior similarity, or other factors. Where a pattern is found, it can be the basis to enhance sanctions accordingly.

Violation of any other University policies may constitute Discrimination or Harassment when motivated by actual or perceived Protected Characteristic(s), and the result is a limitation or denial of education or employment access, benefits, or opportunities.

A. Discrimination

Discrimination is different treatment with respect to a person's employment or participation in an Education Program or Activity based, in whole or in part, upon the person's actual or perceived Protected Characteristic(s). Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

1. Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived Protected Characteristic(s) and that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a University program or activity.

2. Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a University program or activity.

B. Discriminatory Harassment

- Unwelcome conduct on the basis of actual or perceived Protected Characteristic(s),
- based on the totality of the circumstances,
- that is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the University's program or activity.

C. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Connecticut regard Sexual Harassment, a specific form of Discriminatory Harassment, as an unlawful discriminatory practice.

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.

The University has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

1. **Title VII/FHA Sexual Harassment** applies to situations where an Employee is subjected to workplace Sexual Harassment or where a situation involves a residential Complainant in University-provided housing.
 - Unwelcome verbal, written, graphic, and/or physical conduct;
 - that is severe or pervasive and objectively offensive;
 - on the basis of Sex, that
 - unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. This definition applies to all Formal Complaints that fall within Title IX jurisdiction as determined by the Title IX and Equity Coordinator. Sexual Harassment includes:

Conduct on the basis of Sex, or that is sexual in nature, that satisfies one or more of the following:

1. **Quid Pro Quo:**
 - An Employee of the University,
 - conditions⁵ the provision of an aid, benefit, or service of the University,
 - on an individual's participation in unwelcome sexual conduct.
2. **Sexual Harassment (Hostile Environment):**
 - Unwelcome conduct,
 - determined by a Reasonable Person,
 - to be so severe, and
 - pervasive, and,
 - objectively offensive,
 - that it effectively denies a Complainant equal access to the University's program or activity.⁶
3. **Sexual Assault:**¹¹
 - a. **Rape:**

⁵ Implicitly or explicitly.

⁶ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent), though a Decision-maker may consider compelling evidence that rebuts an assertion of unwelcomeness. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances 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.

- Penetration, no matter how slight,
 - of the vagina or anus of a person,
 - with any body part or object, or
 - oral penetration
 - of a sex organ of the Complainant, or
 - by the Respondent's sex organ,
 - without the consent of the Complainant,
 - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- b. **Fondling:**
- The touching of the private body parts (buttocks, groin, breasts) of the Complainant by the Respondent, or
 - the Respondent's private body parts touching the Complainant, or
 - the Respondent causing the Complainant to touch the Respondent's or their own private body parts,
 - for the purpose of sexual gratification,⁷
 - without the consent of the Complainant,
 - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- c. **Incest:**
- Sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by Connecticut law.
- d. **Statutory Rape:**
- Sexual intercourse,
 - with a person who is under the statutory age of consent of 16 years old.
4. **Dating Violence:**
- Violence,⁸

⁷ Contact with private body parts is considered to be done for the purpose of sexual gratification unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

⁸ For purposes of the Policy, violence includes situations where the Respondent intentionally or recklessly causes the Complainant serious physical, emotional, or psychological harm.

- Intent is evidenced when a Reasonable Person would be more likely to act with the purpose of causing serious harm rather than for any other reason
- Recklessness is evidenced by a disregard of obvious risk to the safety of the Complainant
- Legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if it is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof.
- Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances
- Threats to seriously harm the Complainant or people they care about may be chargeable under this definition if doing so causes serious emotional or psychological harm

- on the basis of Sex,
- committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant
 - 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—
 - Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
 - Dating Violence does not include acts covered under the definition of Domestic Violence

5. **Domestic Violence:**⁹

- Violence,¹⁰
- on the basis of Sex,
- committed by a Respondent who is a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Connecticut, or
- 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 Connecticut.

6. **Stalking:**

- A Respondent engaging in a course of conduct,
- on the basis of Sex,
- directed at the Complainant, that
 - would cause a Reasonable Person to fear for the person's safety, or the safety of others; or
 - Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to 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
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

D. **Sexual Misconduct**

1. **Sexual Exploitation:**

- Any person taking non-consensual or abusive sexual advantage of another, that does not constitute Sexual Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

-
- Threats to harm oneself, even if made to cause emotional or psychological harm, are not considered violence under this definition

⁹ To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

¹⁰ As defined in the footnote for Dating Violence.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Electronically distributing (e.g., Airdropping, Snapchatting) nude or sexual photos or videos of another person without their consent
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

E. Other Prohibited Conduct (when motivated by the Complainant's Protected Characteristic(s)/status)

1. Bullying:

- Repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

2. Endangerment:

- Threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3. Hazing:

- Any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any University group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of Hazing to be upheld
- It shall not constitute an excuse or defense to a Hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered Hazing

4. Retaliation

- The University or any member of the University's community,
- taking or attempting to take materially adverse action,
- by intimidating, threatening, coercing, harassing, or discriminating 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 the Policy and associated procedures.

The exercise of rights protected under the First Amendment does not constitute Retaliation. It is also not Retaliation for the University to pursue disciplinary action against those who make materially false statements in bad faith in the course of a resolution process under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5. Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of the Title IX and Equity Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in the Policy
- Intentional interference with a resolution process, including, but not limited to:
 - Destroying or concealing evidence
 - Seeking or encouraging false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

F. Consent, Force, and Incapacitation

As used in the Policy, the following definitions and understandings apply:

1. Consent:

- knowing, and
- voluntary, and
- clear permission
- by word or action

- to engage in sexual activity.¹¹

Individuals may perceive and 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 activity. Consent is evaluated from the perspective of what a Reasonable Person would conclude are mutually understandable words or actions. Reasonable reciprocation can be implied consent. 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 reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Although resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of Sexual Assault.

Proof of consent or non-consent is not a burden placed on any party involved in a Formal Complaint. 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 misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sexual activity, those acts may constitute Dating Violence or Sexual Assault.¹²

2. Force:

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

¹¹ The state definition of consent is the unambiguous, informed and voluntary manifestation of agreement freely given without the use of force, fraud or coercion by each person who actively agrees to engage in a sexual act, which is applicable to criminal prosecutions in Connecticut, but may differ from the definition used in this Policy.

¹² Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) 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.

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,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in 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. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3. Incapacitation:

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person 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, and how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including as a result of alcohol or other drug consumption.

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 substances.

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

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of the Policy. “Should have known” is an objective, Reasonable Person standard that assumes that a Reasonable Person is both sober and exercising sound judgment.

13. Standard of Evidence

The University uses the preponderance of the when determining whether a Policy violation occurred. This means that the University will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent violated the Policy.

14. Notice/Complaints of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct

A report provides the University Notice of an allegation or concern about Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct and provides an opportunity for the Title IX and Equity Coordinator to provide information, resources, and supportive measures. A Formal Complaint informs the University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Formal Complaint. Reports of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct may be made using any of the following options:

1. File a report with, or give verbal Notice to, the Title IX and Equity Coordinator or to any member of the Nondiscrimination Team. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office of the Title IX and Equity Coordinator or any other Nondiscrimination Team member listed in the Policy.
2. Report online at https://cm.maxient.com/reportingform.php?UnivofBridgeport&layout_id=5. Anonymous reports are accepted but the report may give rise to a need to try to determine the Parties’ identities. Anonymous reports typically limit the University’s ability to investigate, respond, and provide remedies, depending upon what information is

shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous reports.

As used in the Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by University for this purpose) that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations. If Notice is submitted in a format that does not meet this standard, the Title IX and Equity Coordinator will contact the Complainant to determine whether the Complainant is requesting that the University initiate an investigation or other appropriate resolution procedures.¹³

Reporting carries no obligation to file a Formal Complaint, and in most situations, the University is able to respect a Complainant’s request to not initiate an investigation or other appropriate resolution procedures. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate an investigation or other appropriate resolution procedures. If a Complainant does not wish to file a Formal Complaint, the University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of privacy by submitting a report that allows the University to discuss and/or provide supportive measures, in most circumstances.

15. Time Limits on Reporting

There is no time limitation on providing Notice/Formal Complaints to the Title IX and Equity 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/or provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX and Equity Coordinator’s discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

16. False Allegations and Evidence

Deliberately false and/or malicious accusations under the Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a Policy violation determination. False allegations may be a form of Harassment or Retaliation or may fall within other University policies.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, hearing, or Informal Resolution can be subject to discipline under appropriate University policies.

17. Confidentiality/Privacy

The University makes every effort to preserve the Parties’ privacy. The University will not share the identity of any individual who has made a report of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation or resolution proceeding arising under these policies and procedures.^{14, 15}

¹³As required by federal law, the University may not initiate a resolution process for allegations of Title IX Sexual Harassment without a Formal Complaint. For all other allegations of prohibited conduct under the Policy, a Formal Complaint is not required, and the University may initiate its resolution process upon Notice of the alleged misconduct. Notice can be substituted in place of references to a Formal Complaint for allegations other than Title IX Sexual Harassment throughout the Policy.

¹⁴ 20 U.S.C. 1232g.

¹⁵ 34 C.F.R. § 99.

Further, Parties and Advisors are expected to maintain the confidentiality of all information created by or shared with them by the University during any investigation and/or resolution process. Parties are entitled to share their own accounts and experiences but are encouraged to consider the sensitivity of the matter if they do so and should consult with their Advisors on any potential implications of doing so.

18. Emergency Removal/Interim Actions/Leaves

The University can act to remove a Student Respondent accused of Title IX Sexual Harassment from its Education Program or Activities, partially or entirely, 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 or other individual justifies removal. This risk analysis is performed by the Title IX and Equity Coordinator and may be done in conjunction with the CARE Team using its standard objective violence risk assessment procedures. Students accused of other forms of Discrimination, Harassment, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

Employees are subject to existing procedures for interim actions and leaves.

19. Federal Timely Warning Obligations

The University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the University community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

20. Amnesty

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report alleged misconduct to University officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, the University offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the University, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

The University also maintains an amnesty policy for Students in addition to witnesses who offer help to others in need.

B. Employees

Sometimes, Employees are hesitant to report Discrimination, Harassment, Retaliation, or Other Prohibited Conduct they have experienced for fear that they may get in trouble themselves. The University may, at its discretion, offer Employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

21. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. The University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better)
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container (if provided by law enforcement)
- Seeking medical treatment can be essential even if it is not for the purpose of collecting forensic evidence

Stalking/Dating Violence/Domestic Violence/Sexual Harassment

- Evidence in the form of text and voice messages will be lost in most cases if a party or witness changes their phone number
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook)
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts
- Take time-stamped photographs of any physical evidence including notes, gifts, etc. in place when possible
- Save copies of any messages, to include those showing any request for no further contact
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible
- If changing devices, make sure to transfer any files needed to the new device

During the initial meeting between the Complainant and the Title IX and Equity Coordinator, the importance of taking these actions will be discussed, if timely.

22. Federal Statistical Reporting Obligations

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

1. All “primary crimes,” which include criminal homicide, Sexual Assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
2. 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
3. Violence Against Women Act (VAWA-based crimes), which include Sexual Assault, Domestic Violence, Dating Violence, and Stalking¹⁶
4. Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) must be shared with the Clery Officer for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs, student conduct staff, campus security, athletic directors, residence life staff, student activities staff, human resources staff, and any other official with significant responsibility for Student and campus activities.

¹⁶ 42 U.S.C. sections 13701 through 14040.

23. Independence and Conflict of Interest

The Director of Title IX and Equity Compliance manages the Nondiscrimination Team and acts with independence and authority, free from bias and conflicts of interest. The Director of Title IX and Equity Compliance oversees all Resolutions under the Policy and associated procedures. The members of the Resolution Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific Formal Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or Discrimination by the Director of Title IX and Equity Compliance, contact the Senior Vice President of Human Resources and Community Culture. Concerns of bias, misconduct, Discrimination, or a potential conflict of interest by any other Nondiscrimination Team member should be raised with the Director of Title IX and Equity Compliance.

24. One Policy, Two Procedures

The University will act on any Notice/Formal Complaint of violation of this Policy that the Title IX and Equity Coordinator or any other Official with Authority receives. The University uses two sets of procedures, known as Process A and Process B. Process A is compliant with the federal Title IX regulations. It involves an investigation and live hearing, including cross-examination. It also includes an Informal Resolution option.

Process A is applicable to all Formal Complaints of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking that occur within the University's Education Program or Activity.

Process B applies to: (1) Formal Complaints of alleged Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking that fall outside of the University's Education Program or Activity; and (2) all other complaints of Discrimination, Harassment, and Retaliation on the basis of all Protected Characteristics. The choice between applying Process A or B is solely at the Title IX and Equity Coordinator's discretion. Occasionally, a Formal Complaint will include conduct that falls within both Processes A and B. When that occurs, Process A will typically be used to address all allegations.

25. Notice/Complaint

Upon receipt of Notice or a Formal Complaint of an alleged Policy violation, the Title IX and Equity Coordinator will initiate a prompt initial assessment to determine the University's next steps. The Title IX and Equity Coordinator will contact the Complainant to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

26. Collateral Misconduct

Collateral misconduct includes potential violations of other University policies that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX and Equity Coordinator may consult with University officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the Title IX and Equity Coordinator's discretion. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Student, Faculty, and Staff handbooks.

27. Policy Revision

The Policy and associated procedures succeed all previous policies addressing Discrimination, Harassment, sexual misconduct, and/or Retaliation, for incidents occurring on or after August 14, 2020. The Director of Title IX and Equity Compliance regularly reviews and updates the Policy and procedures. Incidents occurring before August 14, 2020, will be addressed using the policy that was in place at the time of the incident, but the procedures used will be those in place at the time of the Formal Complaint. The University reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

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

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

A change required by a court or government order could occur during an active investigation or resolution process. If that happens, the University reserves the right to adjust the Policy and Procedures accordingly and notify the Parties of any necessary mid-process changes. This could include entirely replacing the Policy or associated procedures, which could necessitate restarting an investigation or resolution process. The University will make every effort to minimize the impact on the Parties as much as possible if changes are unavoidable.

The Policy is effective June 20, 2025.

Appendix B—Title IX Grievance Process (Process A)

1. Initial Assessment

The Title IX and Equity Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice or a Formal Complaint.¹⁷ The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether the University has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution options if a Formal Complaint is made

Helping a Complainant Understand Resolution Options

If the Complainant indicates they wish to file a Formal Complaint, the Title IX and Equity Coordinator will work with the Complainant to determine which resolution option they prefer. The Title IX and Equity Coordinator will seek to abide by the Complainant's wishes but may have to take another approach depending upon their assessment of the situation.

If the Formal Grievance Process is pursued, the Title IX and Equity Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title IX and Equity Coordinator will refer the matter to the appropriate individuals(s) if the Title IX and Equity Coordinator determines Informal Resolution is available and the other Parties consent to participate. Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant.¹⁸

If the Complainant does not want any action taken, the Title IX and Equity Coordinator will consider that request. Typically, allegations of Student-on-Student and Employee-on-Employee misconduct will not prompt the Formal Grievance Process unless deemed necessary by the Title IX and Equity Coordinator, though the Complainant can elect to pursue the formal process in the future. The Title IX and Equity Coordinator may need to refer allegations of Employee-on-Student misconduct to the Formal Grievance Process regardless of the Complainant's wishes, depending on the nature of the allegations.

The Title IX and Equity Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint.

Title IX and Equity Coordinator Authority to Initiate a Complaint

The Title IX and Equity Coordinator has ultimate discretion as to whether a Formal Complaint is made and may consult with appropriate University Employees, and/or conduct a violence risk assessment to aid their determination whether to sign a Formal Complaint on behalf of the Complainant.

If a Complainant is not participating or attempting to participate in the University's Education Program or Activity at the time of making a Formal Complaint, they can request that the Title IX and Equity Coordinator sign a Formal Complaint. When the Title IX and Equity Coordinator signs a Formal Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Title IX and Equity Coordinator declines to sign a Formal Complaint, alternative processes may be available and can be explored with the Title IX and Equity Coordinator.

¹⁷ If circumstances require, the Senior Vice President of Human Resources and Community Culture or Title IX and Equity Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title IX and Equity Coordinator or the Title IX and Equity Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

¹⁸ 34 C.F.R. § 106.45.

2. Dismissal (Mandatory and Discretionary)¹⁹

The University **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 Title IX Sexual Harassment as defined above, even if proven
2. The Sex-based conduct did not occur in the University's Education Program or Activity (including buildings or property controlled by recognized student organizations) and/or the University does not have control of the Respondent
3. The Sex-based conduct did not occur against a person in the United States
4. The Complainant alleging Sex-based conduct is not participating in or attempting to participate in the University's Education Program or Activity at the time of filing the Formal Complaint, and based on the available information, the Title IX and Equity Coordinator has determined that they do not need to sign a Formal Complaint on behalf of the University²⁰

The University **may** dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

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

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

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

This dismissal decision is appealable by any party.

When the Title IX and Equity Coordinator has signed a Formal Complaint and later determines that the basis for signing is no longer compelling, the Title IX and Equity Coordinator may rescind the Formal Complaint and notify the Parties accordingly. This is not a dismissal, and there is no opportunity to appeal because the Complainant may still file a Formal Complaint if they wish to, in most circumstances.

3. Appeal of Dismissal

The Parties may appeal a decision to dismiss their Formal Complaint. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal decision.

A dismissal may be appealed on the following grounds:

1. A procedural irregularity affected the outcome of the matter
2. New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter

¹⁹ These dismissal requirements are mandated by 34 CFR § 106.45.

²⁰ Such a Complainant is still entitled to supportive measures, but the Formal Grievance Process is not applicable unless the Title IX and Equity Coordinator signs the Formal Complaint in the event the Complainant cannot/will not do so.

3. The Title IX and Equity Coordinator, Investigator(s), or Decision-maker(s) 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

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX and Equity Coordinator will share the request and supporting documentation with all other Parties and provide three (3) business days for other Parties and the Title IX and Equity Coordinator to respond to the request. At the conclusion of the response period, the Title IX and Equity Coordinator will forward the request, as well as any response provided by the other Parties and/or the Title IX and Equity Coordinator to the Dismissal Appeal Decision-maker for consideration.

If the appeal request does not provide information that meets the grounds in the Policy, the Dismissal Appeal Decision-maker will deny the request, and the Parties, their Advisors, and the Title IX and Equity Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in the Policy, then the Dismissal Appeal Decision-maker will notify all Parties and their Advisors, and the Title IX and Equity Coordinator of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Decision-maker has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Title IX and Equity Coordinator's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Decision-maker may consult with the Title IX and Equity Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX and Equity Coordinator will maintain documentation of all such consultation.

4. Emergency Removal/Interim Suspension of a Student

The University may emergency remove a Student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Grievance Process. Prior to an emergency removal, the University will conduct an individualized risk assessment and may remove the Student if that assessment determines that an immediate threat to the physical health or safety of any Student or other individual justifies removal. Students accused of other forms of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX and Equity Coordinator will meet with the Student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A Student can later request a meeting to show why they are no longer an immediate threat because

conditions related to the threat have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX and Equity Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX and Equity Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX and Equity Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

5. Placing Employees on Leave

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, the Title IX and Equity Coordinator will collaborate with Human Resources to determine appropriate steps to put the Employee on leave.

6. Counter-Complaints

The University is obligated to ensure that the Formal Grievance Process is not abused for retaliatory purposes. Although the University permits the filing of counter-complaints, the Title IX and Equity Coordinator will use an initial assessment, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Formal Grievance Process. At the Title IX and Equity Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial Formal Complaint.

7. Advisors in the Formal Grievance Process

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose.

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.

A. Who Can Serve as an Advisor

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.²¹ Parties have the right to choose not to have an Advisor in the initial stages of the Formal Grievance Process, prior to a hearing.

The Title IX and Equity Coordinator will offer to assign a trained Advisor to any party. If the Parties choose an Advisor from the University's Resolution Process Pool, the University will have trained the Advisor and familiarized them with the University's Formal Grievance Process.

²¹ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

The University cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide an attorney to advise that party. However, all institutionally appointed Advisors will be provided with similar training.

If the Parties choose an Advisor from outside the Resolution Process Pool, the Advisor may not have been trained by the University and may not be familiar with University policies and procedures.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX and Equity Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The University may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX and Equity Coordinator. The decision to grant this request is at the Title IX and Equity Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the University will refuse that request at the discretion of the Title IX and Equity Coordinator.

B. Advisor's Role in the Formal Grievance Process

Advisors should help the Parties to prepare for each meeting or hearing and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, except for conducting cross-examination during a hearing, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

The Title IX Regulations require a form of indirect questioning during the hearing, which 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 Parties and witnesses.

C. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file. Parties will be asked to sign releases for the University to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records the University shares with them. The University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

D. Advisor Expectations

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings/interviews/hearings when planned, but the University may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the University. Advisors are expected to advise without disrupting proceedings.

E. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different Advisor or providing a different University-appointed Advisor. Subsequently, the Title IX and Equity Coordinator will determine how to address the Advisor's non-compliance and future role.

8. Resolution Options Overview

The Formal Grievance Process is the University's primary resolution approach unless all Parties and the University agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title IX and Equity Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

There is an expectation of privacy around what Investigators share with Parties during interviews and for any materials the institution shares with the Parties during the resolution process. The Parties have discretion to share their own knowledge and evidence with others if they choose, except for information the Parties agree not to disclose as part of an Informal Resolution. The University encourages Parties to discuss any sharing of information with their Advisors before doing so.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX and Equity Coordinator at any time prior to a Final Determination or the Title IX and Equity Coordinator may offer the option to the Parties. The University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. To engage in Informal Resolution, a Complaint must first submit a Formal Complaint.

Three approaches to Informal Resolution are detailed in this section.

1. **Supportive Resolution.** When the Title IX and Equity Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
2. **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Title IX and Equity Coordinator are agreeable to the resolution terms.
3. **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution process at any time and initiate or resume the Formal Grievance Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process should Informal Resolution not be successful.

If an investigation is already underway, the Title IX and Equity Coordinator has discretion to determine if the investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to engaging in Informal Resolution, the University will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that the University will maintain and under which circumstances they may be released.

Informal Resolution Approaches

1. Supportive Resolution

Most commonly offered once a Formal Complaint is filed. The Title IX and Equity Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to the University's Education Program and Activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX and Equity Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options and the Title IX and Equity Coordinator does not believe there is a need to sign a Formal Complaint. At the discretion of the Title IX and Equity Coordinator, this resolution option can result in an agreement between the Complainant and the University that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

2. Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Formal Grievance Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX and Equity Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX and Equity Coordinator will determine whether all Parties and the University are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX and Equity Coordinator implements the accepted Finding that the Respondent is in violation of University Policy, implements agreed-upon restrictions and remedies, and determines any other appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Discrimination or Harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

3. Alternative Resolution

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction between the Parties; indirect action by the Title IX and Equity Coordinator or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX and Equity Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX and Equity Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX and Equity Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Grievance Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Title IX and Equity Coordinator must consider whether to dissolve the agreement and reinstate the Formal Grievance Process to remedy the impact as required by law. The results of Formal Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent Formal Grievance Process to determine whether the Policy has been violated.

B. Formal Grievance Process

The formal grievance process begins in section 10 of these procedures.

9. Resolution Process Pool

The University relies on a pool of individuals ("the Pool") to carry out the resolution options.

A. Pool Member Roles

Pool members are trained annually, and can serve in any of the following roles at the Title IX and Equity Coordinator's discretion:

- Appropriate intake of and initial guidance pertaining to Formal Complaints
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Hearing Facilitator
- Decision-maker
- Appeal of Dismissal Decision-maker

- Appeal Decision-maker

B. Pool Member Appointment

The Director of Title IX and Equity Compliance, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Formal Complaints, the University can also designate permanent roles for individuals in the Pool.

10. Notice of Investigation and Allegations (NOIA)

The Title IX and Equity Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Formal Grievance Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Title IX and Equity Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant and Directly Related Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about the University’s policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the Parties that the University’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process
- Information about how a party may request disability accommodations or other support assistance during the Formal Grievance Process
- A link to/attachment with the University’s VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the Parties’ University-issued email or other approved accounts. Once emailed, and/or received in-person, notice is presumptively delivered.

11. Resolution Timeline

The University will make a good faith effort to complete the Formal Grievance Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX and Equity Coordinator can extend as necessary for appropriate cause. The

Parties will receive regular updates on the progress of the Formal Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The University will promptly resume its Formal Grievance Process as soon as feasible. During such a delay, the University will implement and maintain supportive measures for the Parties as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

The University will make a good faith effort to complete the Formal Grievance Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

12. Ensuring Impartiality

No individual materially involved in the administration of the Formal Grievance Process, including the Title IX and Equity Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX and Equity Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Grievance Process, and the Title IX and Equity Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX and Equity Coordinator, concerns should be raised with the Director of Title IX and Equity Compliance.

The Formal Grievance Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

13. Witness Role and Participation in the Investigation

Witnesses who are University Employees are strongly encouraged to cooperate with and participate in the University's investigation and Formal Grievance Process. Student witnesses and witnesses from outside the University community are encouraged to cooperate with University investigations and to share what they know about a Formal Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime), or, in limited circumstances, by telephone. The University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and 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.

14. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Grievance Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. Should the Investigator choose to record, all involved persons will be made aware of the audio and/or video recording.

15. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider Relevant or Directly Related Evidence.

Neither the investigation nor the hearing will consider:

1. Questions or evidence about the Complainant's sexual predisposition²²
2. Questions or evidence about the Complainant's 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 alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent²³
3. Questions or evidence about a party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist unless the party or witness provides voluntary, written consent for the records to be considered

Within the boundaries stated above, the investigation and the hearing can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

16. Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview

²² The University defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

²³ The University defines "prior sexual behavior" to include only sexual actions taken by or involving a Complainant prior to the reported incident(s), not the absence of such actions.

- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File
- Providing the Parties and their respective Advisors an 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 University 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 (10) days.
- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report
- Sharing the Final Investigation Report with the Title IX and Equity Coordinator and/or legal counsel for their review and feedback
- Providing the Title IX and Equity Coordinator with the Final Investigation Report and Directly Related Evidence File

17. Referral for Hearing

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties, the Title IX and Equity Coordinator will refer the matter for a hearing.

The hearing cannot be held 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.

The Title IX and Equity Coordinator will select an appropriate Decision-maker from the Pool and provide a copy of the Final Investigation Report and the file of Directly Related Evidence.

18. Hearing Decision-maker

The Decision-maker will not have had any previous involvement with the Formal Complaint. The Title IX and Equity Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX and Equity Coordinator may not serve as a Decision-maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX and Equity Coordinator.

19. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX and Equity Coordinator's discretion.
 - The Parties may make a request to the Title IX and Equity Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX and Equity Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
 - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX and Equity Coordinator following the live hearing.
 - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the University's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Formal Grievance Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony. The University reserves the right to have legal counsel present to observe the hearing.
- **Advisors.** The Parties may have the assistance of an Advisor of their choice at the hearing or can request that the University appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.
 - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX and Equity Coordinator, with each party being provided the same opportunity.
 - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with the Policy.
 - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.
 - If the party does not have an Advisor, the Title IX and Equity Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX and Equity Coordinator that the Decision-maker will review during any sanction determination.
 - Upon receipt of an impact and/or mitigation statement, the Title IX and Equity Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
 - The Title IX and Equity Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX and Equity Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Title IX and Equity Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent involved in the Formal Complaint.
 - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX and Equity Coordinator about possible recusal or removal.

- The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX and Equity Coordinator within two (2) business days of receiving the hearing notice.
- The Title IX and Equity Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
- If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX and Equity Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
 - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least ten (10) business days in advance of the hearing.
 - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.²⁴

20. Hearing Notice

The Title IX and Equity Coordinator will send the Parties a notice of hearing letter no less than ten (10) business days prior to the hearing. Once emailed and/or received in-person, notice is presumptively delivered. The notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result
- The time, date, and location of the hearing
- A description of any technology that will be used to facilitate the hearing
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance

21. Witness Participation

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor without the Title IX and Equity Coordinator's express permission. At the discretion of the Decision-maker, a witness may participate by phone if no other reasonable alternative is available.

The Title IX and Equity Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX and Equity Coordinator may reschedule the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the Formal Complaint back to the Investigator,
- The Decision-maker deems the evidence presented by the new witness to be relevant and not information already established in the record, and

²⁴ Hard copy materials may be provided upon request to the Title IX and Equity Coordinator. The Final Investigation Report and Relevant Evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted
- Remand the Formal Complaint back to the Investigator for further investigation or verification
- Allow the Parties to review and comment on the testimony of the new witness²⁵

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new witness's participation.

22. Pre-Hearing Meetings

The Decision-maker will offer to convene pre-hearing meeting(s) with the Parties and their Advisors to familiarize them with the hearing process and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to 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 on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will consider arguments that evidence identified as relevant in the Final Investigation Report is, in fact, not relevant. Similarly, evidence identified by the Investigator(s) as directly related but not relevant may be argued to be relevant. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX and Equity Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all 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 Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

23. Hearing Procedures

A. Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new evidence.

The new Relevant Evidence will be admitted to the record if:

²⁵ 34 C.F.R. § 668.46(k)(3)(B)(3) requires "timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings."

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the Relevant Evidence
- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing without allowing the new evidence.

B. Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the Discrimination, Harassment, Retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

C. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX and Equity Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Formal Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Formal Complaint with respect to each alleged policy violation.

D. Introductions and Hearing Procedure Explanation

The Decision-maker will:

- Explain the hearing procedures
- Introduce the participants
- Answer any procedural questions prior to and as they arise throughout the hearing

E. Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties through their Advisors. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

F. Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through their Advisors.

All questions are subject to the Decision-maker's relevance determination. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted). The proceeding will pause to allow the Decision-maker to consider the question (and state it if it has not already been stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased. 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 they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive and has the final say on all questions and relevance determinations. The Decision-maker may consult with legal counsel on any admissibility questions.

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, refer them to the Title IX and Equity Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

G. Refusal to Submit to Questioning and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on the available Relevant Evidence in making a Final Determination. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions. Typically, after brief opening statements, the order of questioning will be questions from the Decision-maker, questions from the party's own Advisor, then questions from the other Parties' Advisors. The same order will be used for questioning of witnesses, who do not typically make opening statements. The Parties then make brief closing statements, and then the hearing transitions into closed session for deliberation.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

H. Hearing Recordings

The University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate University officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX and Equity Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

24. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of evidence. If a panel is used, a simple majority vote is required to determine the Finding. Deliberations are not recorded.

When there is a Finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Title IX and

Equity Coordinator will ensure that each of the Parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted.

The Decision-maker will also review any pertinent conduct history provided by the office and will determine the appropriate sanction(s) in consultation with other appropriate administrators, if required.

The Decision-maker will then prepare a written statement detailing all Findings and Final Determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX and Equity Coordinator.

This statement must be submitted to the Title IX and Equity Coordinator within five (5) business days of the end of deliberations unless the Title IX and Equity Coordinator grants an extension. If an extension is granted, the Title IX and Equity Coordinator will notify the Parties.

25. Notice of Outcome

The Title IX and Equity Coordinator will provide the Parties with a written outcome notification within ten (10) business days of the conclusion of the Formal Grievance Process. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which the University is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent the University is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title IX and Equity Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued or other approved email account. Once emailed, and/or received in person, the outcome notification is presumptively delivered.

26. Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

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

The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions

The following are the common sanctions that may be imposed on students singly or in combination:

- *Deferred Suspension*: The student's behavior warrants suspension, but due to mitigating circumstances, the student is allowed to mature and/or the student had demonstrably learned from the experience. Any further violations of University rules or regulations will result in automatic suspension or expulsion. The student may not represent the University in any extra-curricular activity, run for, or hold office in any student group or organization.
- *Deferred Loss of Housing*: The student's behavior warrants removal from housing, but due to mitigating circumstances, the student is allowed to mature and/or the student has demonstrably learned from the experience. Any further violations of University rules or regulations will result in automatic removal from University housing.
- *Disciplinary Probation*: A written reprimand for violation of specified regulations. Probation extends for a designated period of time and includes the likelihood of more severe disciplinary sanctions if the student violates any institutional policies during the probationary period. Periodic meetings with the Title IX and Equity Coordinator, Student Conduct Officer, or their designee may be required throughout the probationary period.
- *Disciplinary Warning*: A written notice to the student for a current or prior violation of institutional policy. Minor violations may also include some penalty, work experience, or other sanction(s).
- *Dismissal*: Separation from the University for an indefinite period of time for a minimum of two years. The Director of Title IX and Equity Compliance, or their designee, in their sole discretion, may permit readmission if the student satisfied all readmission criteria and obtains clearance to their satisfaction. Readmission will not be considered until after two years from the date of dismissal. This sanction may be noted as a Disciplinary Dismissal on the student's official academic transcript.
- *Expulsion*: Permanent separation of the student from the University. The student is barred from all University premises. Clearance to return may be granted only by the President or Provost. This sanction may be noted as a Disciplinary Expulsion on the student's official academic transcript.
- *Fines*: Fines established and published before the disciplinary incident may be imposed.
- *Interim Suspension*: The Title IX and Equity Coordinator, or their designee, may suspend a student for an interim period pending disciplinary proceedings or medical evaluation. Such interim suspension may become effective immediately without prior notice whenever there is evidence that such action is necessary for the safety of the University community or the student.
- *Loss of Privileges*: Denial of specified privileges for a designated period of time. This may include, without limitation, having guests, visiting other parts of campus, attendance of certain campus events, etc.
- *Other Sanctions*: Other sanctions may be imposed as determined by the University, including, without limitation, anger or stress management training, sexual harassment sensitivity training, restitution, work/research assignment or project, community service, or other restrictions. For any substance-abuse discipline the student may be required to receive counseling (on or off campus) or complete an online educational program related to alcohol and/or substance abuse prevention.
- *Residence Hall Separation or Relocation*: The student may be barred from the residence halls or a specific residence hall, either temporarily or permanently. If temporarily, the student must fulfill any and all conditions to be eligible to return to the residence halls after the determined period of time. Conditions for admission may be specified. Student may not run or hold an office in any hall group or organization.
- *Revocation of Admission and/or Degree*: Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University policies in obtaining the degree, or for other serious violations committed by a student prior to graduation. This sanction may be noted on the student's official academic transcript.
- *Suspension*: Separation from the University for a maximum of two years. The Director of Title IX and Equity Compliance, or their designee, in their sole discretion, may permit readmission if the student satisfies all

readmission criteria and obtains clearance to their satisfaction. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript.

- *Withholding Degree*: The University may withhold awarding a degree otherwise earned until the completion of a process set forth in these policies, including the completion of all sanctions imposed, if any.

B. Student Organization Sanctions

The following are the common sanctions that may be imposed upon student 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.
- *Probation*: An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of University funds, ineligibility for honors and awards, restrictions on new member recruitment, no contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in University related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific University privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign other sanctions as deemed appropriate.

C. Employee Sanctions

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave 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

27. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from the University, the Formal Grievance Process typically ends with a dismissal, as the University has lost primary disciplinary jurisdiction over the withdrawn Student. However, the University may continue the Formal Grievance Process when, at the discretion of the Title IX and Equity Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to the University in any capacity until the Formal Complaint is resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Title IX and Equity Coordinator has discretion to dismiss the Formal Complaint and bar the Student from returning. The Registrar, Office of Admissions, and HR may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely. If found in violation, that Student is not permitted to return to University unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an Employee Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with the University with unresolved allegations pending, the Formal Grievance Process typically ends with dismissal, as the University has lost primary disciplinary jurisdiction over the former Employee. However, the University may continue the Formal Grievance Process when, at the discretion of the Title IX and Equity Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the Formal Complaint is dismissed, the Employee may not return to the University in any capacity. The Registrar, Office of Admissions, and HR will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the University. The records retained by the Title IX and Equity Coordinator will reflect that status.

28. Appeal of the Final Determination

The Title IX and Equity Coordinator will designate an Appeal Decision-maker from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Formal Grievance Process for the Formal Complaint. If a panel is used, the Title IX and Equity Coordinator will designate a voting chair.

A. Appeal Grounds

Appeals are limited to the following grounds:

1. A procedural irregularity affected the outcome of the matter
2. There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
3. The Title IX and Equity Coordinator, Investigator(s), or Decision-maker(s) 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

B. Appeal Request

Any party may submit a written appeal request to the Title IX and Equity Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in the Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX and Equity Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX and Equity Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal 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. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX and Equity Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX and Equity Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX and Equity Coordinator will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX and Equity Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the University is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued email or other approved account. Once emailed and/or received in person, the appeal outcome letter will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal and interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

29. Long-Term Remedies/Other Actions

Following the conclusion of the Formal Grievance Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX and Equity Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the University community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the Title IX and Equity Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title IX and Equity Coordinator will address any remedies the University owes the Respondent to ensure no effective denial of educational access.

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

30. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

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.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX and Equity Coordinator's satisfaction.

31. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Formal Grievance Process, the University will maintain records of:

1. Each Discrimination, Harassment, Retaliation, and Other Prohibited Conduct Formal Grievance Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the University's Education Program or Activity
4. Any appeal and the result therefrom

5. Any Informal Resolution and the result therefrom
6. All materials used to train the Title IX and Equity Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the University's resolution processes.
7. Any other actions taken in response to a report or Formal Complaint including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to the University's Education Program or Activity

The University will also maintain any and all records in accordance with federal and state laws.

32. Disability Accommodations

The University is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the University's resolution processes.

Anyone needing such accommodations or support should contact the Title IX and Equity Coordinator, who will work with Student Accessibility Services or Human Resources as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

33. Other Support

The University will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process

Appendix C—Discrimination, Harassment, and Retaliation (DHR) Grievance Process (Process B)

1. Initial Assessment

The Title IX and Equity Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice.²⁶ The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether the University has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution option if a Formal Complaint is made

Helping a Complainant to Understand Resolution Options

If the Complainant indicates they wish to initiate the DHR Grievance Process, the Title IX and Equity Coordinator will work with the Complainant to determine which resolution option they want to pursue. The Title IX and Equity Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

Upon receiving a complaint that falls under the DHR Grievance Process, the Title IX and Equity Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title IX and Equity Coordinator will refer the matter to the appropriate individuals(s) if the Title IX and Equity Coordinator determines Informal Resolution is available and the other Parties consent to participate.

If the Complainant does not want any action taken, the Title IX and Equity Coordinator will consider that request, and in most circumstances no resolution process will be initiated (unless deemed necessary by the Title IX and Equity Coordinator), though the Complainant can elect to initiate one later, if desired.

The Title IX and Equity Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to initiate a resolution process.

Title IX and Equity Coordinator Authority to Initiate the DHR Grievance Process

The Title IX and Equity Coordinator has ultimate discretion as to whether to pursue an DHR Grievance Process and may consult with appropriate University Employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a complaint.

When the Title IX and Equity Coordinator initiates a complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Title IX and Equity Coordinator declines to initiate a complaint, alternative processes may be available and can be explored with the Title IX and Equity Coordinator.

The process followed considers the Parties' preference but is ultimately determined at the Title IX and Equity Coordinator's discretion. If at any point during the initial assessment or investigation the Title IX and Equity Coordinator

²⁶ If circumstances require, the Senior Vice President of Human Resources and Community Culture or Director of Title IX and Equity Compliance will designate another person to oversee the resolution process should an allegation be made about the Title IX and Equity Coordinator or the Title IX and Equity Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

determines that reasonable cause does not support the conclusion that Respondent violated the Policy, the process will end, and the Parties will be notified.

The Complainant may request that the Title IX and Equity Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX and Equity Coordinator, but the request is usually only granted in extraordinary circumstances.

2. Interim Suspension

The University may interim suspend a Student accused of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct upon receipt of Notice or at any time during the DHR Grievance Process.

When an interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX and Equity Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the interim suspension will be deemed waived. A Student can later request a meeting to show why they no longer pose a safety concern because the related conditions have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX and Equity Coordinator determines it is fair for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX and Equity Coordinator for review.

An interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX and Equity Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

3. Placing an Employee on Leave

When the Respondent is an Employee, or a Student-Employee accused of misconduct in the course of their employment, the Title IX and Equity Coordinator will collaborate with Human Resources to determine appropriate steps to put the Employee on leave.

4. Counter-Complaints

The University is obligated to ensure that the DHR Grievance Process is not abused for retaliatory purposes. Although the University permits the filing of counter-complaints, the Title IX and Equity Coordinator will use an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Administrative Resolution Process below. At the Title IX and Equity Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial allegations.

5. Advisors in the DHR Grievance Process

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose.

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.

B. Who Can Serve as an Advisor

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.²⁷ Parties have the right to choose not to have an Advisor in the initial stages of the Formal Grievance Process, prior to a hearing.

The Title IX and Equity Coordinator will offer to assign a trained Advisor to any party. If the Parties choose an Advisor from the University's Resolution Process Pool, the University will have trained the Advisor and familiarized them with the University's Formal Grievance Process.

The University cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide an attorney to advise that party. However, all institutionally appointed Advisors will be provided with similar training.

If the Parties choose an Advisor from outside the Resolution Process Pool, the Advisor may not have been trained by the University and may not be familiar with University policies and procedures.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX and Equity Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The University may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX and Equity Coordinator. The decision to grant this request is at the Title IX and Equity Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the University will refuse that request at the discretion of the Title IX and Equity Coordinator.

C. Advisor's Role in the Formal Grievance Process

Advisors should help the Parties to prepare for each meeting or hearing and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, except for conducting cross-examination during a hearing, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing

²⁷ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

The Title IX Regulations require a form of indirect questioning during the hearing, which 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 Parties and witnesses.

D. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file. Parties will be asked to sign releases for the University to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records the University shares with them. The University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

E. Advisor Expectations

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings/interviews/hearings when planned, but the University may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the University. Advisors are expected to advise without disrupting proceedings.

F. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different Advisor or providing a different University-appointed Advisor. Subsequently, the Title IX and Equity Coordinator will determine how to address the Advisor's non-compliance and future role.

6. Resolution Options Overview

The Formal Resolution Process is the University's primary resolution approach unless all Parties and the University agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title IX and Equity Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX and Equity Coordinator at any time prior to a Final Determination, or the Title IX and Equity Coordinator may offer the option to

the Parties. The University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Three approaches to Informal Resolution are detailed in this section.

1. **Supportive Resolution.** When the Title IX and Equity Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
2. **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and University are agreeable to the resolution terms.
3. **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution Process should Informal Resolution not be successful.

If an investigation is already underway, the Title IX and Equity Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, the University will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

Informal Resolution Approaches

1. Supportive Resolution

Most commonly offered once a complaint is filed. The Title IX and Equity Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to the University's education program and activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX and Equity Coordinator may also provide reasonable supports for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX and Equity Coordinator does not believe there is a need to sign a complaint. At the discretion of the Title IX and Equity Coordinator, this resolution option can result in an agreement between the Complainant and the University that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

2. Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Formal Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy

violations, the ongoing process will be paused, and the Title IX and Equity Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX and Equity Coordinator will determine whether all Parties and the University are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX and Equity Coordinator implements the accepted finding that the Respondent is in violation of University Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Resolution Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Discrimination or Harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

3. Alternative Resolution

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX and Equity Coordinator or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX and Equity Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Title IX and Equity Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX and Equity Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX and Equity Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Title IX and Equity Coordinator must consider whether to dissolve the agreement and reinstate the Formal Resolution Process to remedy the impact as required by law. The results of reports resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent Formal Resolution Process to determine whether the Policy has been violated.

B. Formal Resolution Process

Formal Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Policy if proven. Formal Resolution starts with a thorough, reliable, and impartial investigation.

If Formal Resolution is initiated, the Title IX and Equity Coordinator will provide written notification of the investigation to the Parties at an appropriate time during the investigation. Typically, notice is given at least two (2) business days in advance of an interview. Advanced notice facilitates the Parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Written notification will include a meaningful summary of the allegations and the policies alleged to have been violated and may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued or other approved email account. Once emailed, and/or received in-person, notice is presumptively delivered.

The University aims to complete all investigations within a sixty (60)-business-day time period, which can be extended by the Title IX and Equity Coordinator as necessary for appropriate cause. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once an investigation is initiated, the Title IX and Equity Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Pool, or any other properly trained Investigator, whether internal or external to the University community.

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

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The University will promptly resume its Resolution Process as soon as feasible. During such a delay, the University will implement and maintain supportive measures for the Parties as deemed appropriate.

University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

7. Resolution Process Pool

The University relies on a pool of individuals (the “Pool”) to carry out the resolution options.

A. Pool Member Roles²⁸

Pool members are trained annually, and can serve in any of the following roles, at the Title IX and Equity Coordinator’s discretion:

- Appropriate intake of and initial guidance pertaining to Notice
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Decision-maker
- Appeal Decision-maker

B. Pool Member Appointment

The Title IX and Equity Coordinator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, the University can also designate permanent roles for individuals in the Pool.

8. Notice of Investigation and Allegations

The Title IX and Equity Coordinator will provide the Parties written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the DHR Grievance Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Title IX and Equity Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process

²⁸ External, trained third-party neutral professionals may also serve in Pool roles.

- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about the University's policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the Parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the DHR Resolution Process
- Information about how a party may request disability accommodations or other support assistance during the DHR Resolution Process
- A link to the University's VAWA Brochure, if applicable
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued email or other approved accounts. Once emailed, and/or received in-person, notice is presumptively delivered.

9. Resolution Timeline

The University will make a good faith effort to complete the DHR Grievance Process within thirty to sixty (30-60) business days, including any appeals, which the Title IX and Equity Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the DHR Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The University will promptly resume its DHR Grievance Process as soon as feasible. During such a delay, the University will implement and maintain supportive measures for the Parties as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

The University will make a good faith effort to complete the DHR Grievance Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

10. Ensuring Impartiality

No individual materially involved in the administration of the DHR Grievance Process, including the Title IX and Equity Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX and Equity Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The

Parties may raise a concern regarding bias or conflict of interest at any time during the DHR Grievance Process, and the Title IX and Equity Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX and Equity Coordinator, concerns should be raised with the Director of Title IX and Equity Compliance.

The DHR Grievance Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

11. Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the identity of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report 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 (10) days.
- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report
- Sharing the Final Investigation Report with the Title IX and Equity Coordinator and/or legal counsel for their review and feedback

- Providing the Title IX and Equity Coordinator with the Final Investigation Report, including assessment and synthesis of the Relevant Evidence without making any recommendations or reaching any conclusions.

12. Investigation Process Details

A. Witness Role and Participation in the Investigation

Witnesses who are University Employees are strongly encouraged to cooperate with and participate in the University's investigation and Formal Resolution Process. Student witnesses and witnesses from outside the University community are encouraged to cooperate with University investigations and to share what they know about a complaint.

Party and/or witness interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime), or, in limited circumstances, by telephone. The University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and 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.

B. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Resolution Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. Should the Investigator choose to record, all involved persons will be made aware of the audio and/or video recording.

C. Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination absent the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being considered without remanding the matter back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Provide the Parties with at least five (5) business days to review the Relevant Evidence
- Remand the matter back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with making Findings and a Final Determination without allowing the new evidence.

Any evidence that is relevant and credible may be considered, including a Respondent's prior disciplinary history as well as evidence indicating a pattern of misconduct, subject to the limitation in (D) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

D. Evidentiary Exclusions

Unless the Decision-maker determines it is appropriate, the investigation and the Finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual behavior of the Parties (though there may be a limited exception made with regard to the sexual behavior between the Parties); (3) irrelevant character evidence.

Although the Respondent's previous conduct violations (if any) are not generally admissible as information supporting the current allegation(s), the Investigator(s) may supply the Decision-maker with information about previous good faith allegations and/or findings when that information suggests potential pattern and/or predatory conduct.

The University uses a progressive discipline system, thus previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

Character witnesses or evidence may be offered. The Decision-maker will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

A party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist are inadmissible unless the party or witness provides voluntary, written consent for the records to be considered.

13. Respondent Admits Responsibility

If a Respondent elects to admit to the charged violations and waive further process at any point in the Formal Resolution Process, the Decision-maker is authorized to accept that admission, adopt it as their Finding/Final Determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the Finding/Final Determination/sanctions, or does not admit to all charged violations, the Formal Resolution Process continues to its conclusion. The Complainant retains their right to appeal a Final Determination when a Respondent admits responsibility.

14. Determination

Within two to three (2-3) business days of receiving the Investigator's Final Investigation Report, the Decision-maker from the Pool reviews the report and all responses, and then makes the Final Determination by applying the standard of evidence.

If the record is incomplete, the Decision-maker may direct the Investigator(s) to re-open the investigation, or may direct or conduct any additional inquiry necessary, including meeting informally with the Parties or any witnesses if needed.

The Decision-maker may invite and consider impact and/or mitigation statements from the Parties when determining appropriate sanction(s), if any.

15. Notice of Outcome

The Title IX and Equity Coordinator will provide the Parties a written outcome notification within three (3) business days of the Resolution. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which the University is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent the University is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals. Unless based on the Respondent's admission of responsibility, the Determination may be appealed by any party.

The Title IX and Equity Coordinator will provide the Parties with the outcome notification, or without significant time delay between notifications. Notice may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued or other approved email account. Once emailed, and/or received in-person, notice is presumptively delivered.

16. Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

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

The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions

The following are the common sanctions that may be imposed on students singly or in combination:

- *Deferred Suspension*: The student's behavior warrants suspension, but due to mitigating circumstances, the student is allowed to mature and/or the student had demonstrably learned from the experience. Any further violations of University rules or regulations will result in automatic suspension or expulsion. The student may not represent the University in any extra-curricular activity, run for, or hold office in any student group or organization.
- *Deferred Loss of Housing*: The student's behavior warrants removal from housing, but due to mitigating circumstances, the student is allowed to mature and/or the student has demonstrably learned from the experience. Any further violations of University rules or regulations will result in automatic removal from University housing.
- *Disciplinary Probation*: A written reprimand for violation of specified regulations. Probation extends for a designated period of time and includes the likelihood of more severe disciplinary sanctions if the student violates any institutional policies during the probationary period. Periodic meetings with the Title IX and Equity Coordinator, Student Conduct Officer, or their designee may be required throughout the probationary period.
- *Disciplinary Warning*: A written notice to the student for a current or prior violation of institutional policy. Minor violations may also include some penalty, work experience, or other sanction(s).
- *Dismissal*: Separation from the University for an indefinite period of time for a minimum of two years. The Director of Title IX and Equity Compliance, or their designee, in their sole discretion, may permit readmission if the student satisfied all readmission criteria and obtains clearance to their satisfaction.

Readmission will not be considered until after two years from the date of dismissal. This sanction may be noted as a Disciplinary Dismissal on the student's official academic transcript.

- *Expulsion*: Permanent separation of the student from the University. The student is barred from all University premises. Clearance to return may be granted only by the President or Provost. This sanction may be noted as a Disciplinary Expulsion on the student's official academic transcript.
- *Fines*: Fines established and published before the disciplinary incident may be imposed.
- *Interim Suspension*: The Title IX and Equity Coordinator, or their designee, may suspend a student for an interim period pending disciplinary proceedings or medical evaluation. Such interim suspension may become effective immediately without prior notice whenever there is evidence that such action is necessary for the safety of the University community or the student.
- *Loss of Privileges*: Denial of specified privileges for a designated period of time. This may include, without limitation, having guests, visiting other parts of campus, attendance of certain campus events, etc.
- *Other Sanctions*: Other sanctions may be imposed as determined by the University, including, without limitation, anger or stress management training, sexual harassment sensitivity training, restitution, work/research assignment or project, community service, or other restrictions. For any substance-abuse discipline the student may be required to receive counseling (on or off campus) or complete an online educational program related to alcohol and/or substance abuse prevention.
- *Residence Hall Separation or Relocation*: The student may be barred from the residence halls or a specific residence hall, either temporarily or permanently. If temporarily, the student must fulfill any and all conditions to be eligible to return to the residence halls after the determined period of time. Conditions for admission may be specified. Student may not run or hold an office in any hall group or organization.
- *Revocation of Admission and/or Degree*: Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University policies in obtaining the degree, or for other serious violations committed by a student prior to graduation. This sanction may be noted on the student's official academic transcript.
- *Suspension*: Separation from the University for a maximum of two years. The Director of Title IX and Equity Compliance, or their designee, in their sole discretion, may permit readmission if the student satisfies all readmission criteria and obtains clearance to their satisfaction. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript.
- *Withholding Degree*: The University may withhold awarding a degree otherwise earned until the completion of a process set forth in these policies, including the completion of all sanctions imposed, if any.

B. Student Organization Sanctions

The following are the common sanctions that may be imposed upon student 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.
- *Probation*: An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of University funds, ineligibility for honors and awards, restrictions on new member recruitment, no contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in University related activities, whether they occur on or off campus. Re-recognition is

possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University.

- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific University privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign other sanctions as deemed appropriate.

C. Employee Sanctions

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave 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

17. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from the University, the Formal Grievance Process typically ends with a dismissal, as the University has lost primary disciplinary jurisdiction over the withdrawn Student. However, the University may continue the Formal Grievance Process when, at the discretion of the Title IX and Equity Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to the University in any capacity until the Formal Complaint is resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Title IX and Equity Coordinator has discretion to dismiss the Formal

Complaint and bar the Student from returning. The Registrar, Office of Admissions, and HR may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely. If found in violation, that Student is not permitted to return to University unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an Employee Respondent decide not to participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent leaves their employment with the University with unresolved allegations pending, the Formal Grievance Process typically ends with dismissal, as the University has lost primary disciplinary jurisdiction over the former Employee. However, the University may continue the Formal Grievance Process when, at the discretion of the Title IX and Equity Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the Formal Complaint is dismissed, the Employee may not return to the University in any capacity. The Registrar, Office of Admissions, and HR will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the University. The records retained by the Title IX and Equity Coordinator will reflect that status.

18. Appeals

The Title IX and Equity Coordinator will designate an Appeal Decision-maker from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the DHR Grievance Process for the matter. The Title IX and Equity Coordinator will designate a voting chair if a panel is used.

A. Appeal Grounds

Appeals are limited to the following grounds:

1. A procedural irregularity affected the outcome of the matter
2. There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
3. The Title IX and Equity Coordinator, Investigator(s), or Decision-maker(s) 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

B. Appeal Request

Any party may submit a written appeal request to the Title IX and Equity Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in the procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX and Equity Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX and Equity Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal 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. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX and Equity Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX and Equity Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX and Equity Coordinator will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX and Equity Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the University is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person or emailed to the Parties' University-issued email or other approved account. Once emailed, and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

19. Long-Term Remedies/Actions

Following the conclusion of the DHR Grievance Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX and Equity Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the University community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent its recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Community education
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the Title IX and Equity Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title IX and Equity Coordinator will address any remedies the University owes the Respondent to ensure no effective denial of educational access.

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

20. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

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.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX and Equity Coordinator's satisfaction.

21. Recordkeeping

In implementing the Policy and Procedures, the Title IX and Equity Coordinator will maintain records of all allegations, investigations, and Resolutions, indefinitely, or as required by federal or state law or institutional policy.

22. Disability Accommodations

The University is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the University's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX and Equity Coordinator, who will work with Student Accessibility Services and Human Resources as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

23. Other Support

The University will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout a resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process