

SEXUAL HARASSMENT POLICY

TABLE OF CONTENTS

	<u>Page</u>
I. Scope	2
II. Definitions	3
A. Sexual Harassment.....	3
B. Quid Pro Quo Sexual Harassment	3
C. Hostile Environment Sexual Harassment	3
D. Sexual Assault.....	4
E. Domestic Violence.....	4
F. Dating Violence	5
G. Stalking	5
H. Consent	5
I. Incapacitation	5
J. Retaliation	6
K. Complainant.....	6
L. Respondent.....	6
M. Formal Complaint	6
N. Supportive Measures.....	6
O. Education Programs and Activities.....	6
III. Reporting Sexual Harassment	7
A. Mandatory Reporters	7
B. Non-Mandatory Reporting.....	8
IV. Confidential Resources & Reporting	8
V. Special Guidance To Individuals Reporting Sexual Assault	9
VI. Preliminary Assessment of Report	10
VII. Contacting the Complainant	11
VIII. Supportive Measures	11
IX. Interim Removal	11
X. Formal Complaint	12
XI. Consolidation of Formal Complaints	12
XII. Dismissal Prior to Commencement of Investigation	13
XIII. Notice of Formal Complaint	13

XIV.	Advisor of Choice	14
XV.	Investigation	14
XVI.	Adjudication Process Selection	15
XVII.	Adjudication	16
	A. Hearing Process	16
	B. Administrative Adjudication (Optional).....	21
XVIII.	Informal Resolution	22
XIX.	Dismissal During Investigation or Adjudication	23
XX.	Appeal Procedures	24
XXI.	Concurrent University Investigation and Criminal Investigation	25
XXII.	Treatment Records and Other Privileged Information	25
XXIII.	Sexual History	26
XXIV.	Amnesty	26
XXV.	Presumption of Non-Responsibility	26
XXVI.	Retaliation	26
XXVII.	Bad Faith Complaints and False Information	26
XXVIII.	Conflicts of Interest, Bias, and Procedural Complaints	27
XXIX.	Objections Generally	27
XXX.	Constitutional Rights and Academic Freedom	27
XXXI.	Confidentiality	27
XXXII.	Other Violations of this Policy	28
XXXIII.	Training	28
XXXIV.	Recordings	28
XXXV.	Vendors, Contractors and Third Parties	28
XXXVI.	Other Forms of Discrimination	28
XXXVII.	Signatures and Form of Consent	29
XXXVIII.	Deadlines, Time, Notices, and Method of Transmittal	29
XXXIX.	Outside Appointments, Dual Appointments, and Delegations	30
XL.	Recordkeeping	30
XLI.	Definitions Herein	30
XLII.	Discretion in Application	30

Sexual Harassment Policy

Maryville University (the “University”) prohibits Sexual Harassment that occurs within its education programs and activities consistent with the U.S. Department of Education’s implementing regulations for Title IX of the Education Amendments of 1972, 34 C.F.R. § 106 et seq. (“Title IX”).

As further defined herein, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

The University will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the University’s education programs and activities

The University does not condone and will not tolerate Sexual Harassment and is committed to providing programs, activities, and an educational environment free from Sexual Harassment.

The University will promptly and thoroughly investigate all reports of Sexual Harassment in accordance with the procedures specified in this policy.

Administrators, faculty members, staff, students¹, contractors, applicants, and visitors (collectively the “University Community”) who commit Sexual Harassment will be subject to the full range of discipline up to and including written reprimand, mandatory training, coaching, counseling, mandatory monitoring, partial or full probation, partial or full suspension, demotion, fines, permanent separation from the University (i.e. termination or expulsion), physical restriction from University property, cancellation of contracts, and any combination of the same.

The University has appointed the following coordinator to handle inquiries regarding its efforts to carry out this policy, to comply with Title IX, to receive reports and Formal Complaints of Sexual Harassment, to oversee the process of responding to reports and Formal Complaints of Sexual Harassment, and to identify and address any patterns or systemic problems that arise during the review of such Formal Complaints:

Claudia Lyerly, Ed.D
Executive Director and Title IX Coordinator

¹ Any and all persons enrolled at or taking courses through the University in any capacity. Any course registration, whether in a non-degree or degree-granting program of undergraduate, graduate, or professional studies, characterizes the registrant as a “student” from the point of registration to the completion of the course of study. Persons who are not officially enrolled for a particular term but who have clearly manifested intent to attend, remain in attendance, or to return to Maryville University as students are considered “students.” Examples include, but are not limited to, students who are enrolled but not taking classes due to an academic break, medical leave, suspension, or other personal leave; persons who demonstrate an intent to enroll by registering for courses; and students participating in study abroad programs.

Office of Institutional Equity and Compliance
650 Maryville University Dr.
St. Louis, MO 63141
Work Phone: 314.529.6721
Email: clyerly@maryville.edu

The University has also designated the following Deputy Coordinators to assist the Title IX Coordinator in handling reports arising under this policy:

Karlla Dozier, JD
Office of Institutional Equity and Compliance
650 Maryville University Dr.
St. Louis, MO 63141
Work Phone: 314.529.9981
Email: kdozier@maryville.edu

Joseph Fitzpatrick
Dean of Students
Student Life, Donius University Center 111
650 Maryville University Dr.
St. Louis, MO 63141
Work Phone: 314.529.9476
Email: jfitzpatrick@maryville.edu

Individuals wishing to make a complaint of sexual harassment may also contact: Office for Civil Rights, Kansas City Office, U.S. Department of Education:

One Petticoat Lane, 1010 Walnut Street, Suite 320, Kansas City, MO 64106
Telephone: (816) 268-0550
Facsimile: (816) 268-0559
Email: OCR.KansasCity@ed.gov
Web: <http://www2.ed.gov/about/offices/list/ocr/index.html>

I. Scope

This policy applies to Sexual Harassment that occurs within the University's Education Programs and Activities and that is committed by a member of the University Community.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the University's Education Programs and Activities; such Sexual Misconduct may be prohibited by the [Student Code of Conduct](#) if committed by a student, the Faculty Handbook if committed by a faculty member, or other University policies and standards if committed by an employee. The University retains discretion to consolidate a complaint under another policy or standard with an investigation and/or adjudication under this policy if the two share a common nexus.

Consistent with the U.S. Department of Education’s implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the University’s Education Programs and Activities, such as a study abroad program. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, the Faculty Handbook if committed by a faculty member, or other University policies and standards if committed by an employee.

II. Definitions

A. Sexual Harassment

“Sexual Harassment” is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

B. Quid Pro Quo Sexual Harassment

“Quid Pro Quo Sexual Harassment” is an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual contact.

C. Hostile Environment Sexual Harassment

“Hostile Environment Sexual Harassment” is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the University’s education programs and activities.

In determining whether Hostile Environment Sexual Harassment Exists, the University will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment. Hostile Environment Sexual Harassment may include, but is not limited to:

1. Unwelcome efforts to develop a romantic or sexual relationship;
2. Unwelcome commentary about an individual’s body or sexual activities;
3. Threatening to engage in the commission of an unwelcome sexual act with another person;
4. Engaging in indecent exposure; voyeurism, or other invasion of personal privacy;
5. Unwelcome physical touching or closeness that does not rise to the level of Sexual Assault; and

6. Unwelcome jokes or teasing of a sexual nature or based upon sex stereotypes, including stereotypes based on sexual orientation, gender identity, and gender expression.

D. Sexual Assault

“Sexual Assault” includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.²

1. “Rape” is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.
2. “Sodomy” is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity.
3. “Sexual Assault with an Object” is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
4. “Fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity.
5. “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Missouri law.
6. “Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent as defined by Missouri law.

E. Domestic Violence

“Domestic Violence” is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares

² The University’s definition of “Sexual Assault” is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the University to adopt a definition of “Sexual Assault” that incorporates various forcible and non-forcible sex crimes as defined by the FBI’s Uniform Crime Reporting System. *See* 34 C.F.R. § 106.30(a).

a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Missouri, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Missouri.

F. Dating Violence

"Dating Violence" is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Such a relationship is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the (a) length of the relationship, (2) type of relationship, and (3) frequency of the interaction between the persons involved in the relationship.

G. Stalking

"Stalking" is engaging in a course of conduct (two or more incidents) directed at a specific person that would cause a reasonable person to: (a) Fear for their safety or the safety of others; or (b) Suffer substantial emotional distress.

H. Consent

"Consent" refers to words or affirmative actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is Incapacitated is not capable of giving Consent. Consent must be given voluntarily. It cannot be procured through physical violence, threats, blackmail, or other unreasonable pressure for sexual activity. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous relationships or prior consent do not imply consent to future sexual acts.

In order to give effective consent, a person must be of legal age. In the State of Missouri, the legal age of consent is 14. (If a person is over 18, but fewer than 21, the age of consent is 14. If a person is over 21, the person may not have sexual intercourse with anyone under 17.) Sexual acts with someone less than 14 are a violation of state law and of this policy.

I. Incapacitation

"Incapacitation" refers to the state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep. In other words, the person is unable to understand the "who, what, when, where, why, and how" of their sexual interaction and, as a result, cannot give effective consent. Incapacitation is something beyond mere drunkenness or intoxication. No single factor is determinative of incapacitation. Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person.

J. Retaliation

“Retaliation” is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

K. Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

L. Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

M. Formal Complaint

“Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment in accordance with this policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the University’s Education Programs and Activities. A “document filed by a Complainant” means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

N. Supportive Measures

“Supportive Measures” are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the University’s Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the University’s education environment, or to deter Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report

O. Education Programs and Activities

“Education Programs and Activities” refers to all the operations of the University, including, but not limited to, in-person and online educational instruction, employment,

research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the University.

III. Reporting Sexual Harassment

A. Mandatory Reporters

University administrators, faculty members, staff members, and volunteers (except Confidential Reporters discussed below) who observe, or learn of Sexual Harassment directed against another member of the University Community must report the alleged sexual harassment to one of the following individuals within seven (7) days:

Name	Title	Address	Phone	Email
Claudia Lyerly, Ed.D	Executive Director and Title IX Coordinator	Institutional Equity and Compliance 650 Maryville University Dr. St. Louis, MO 63141	314-529-6721	clyerly@maryville.edu
Karlla Dozier, JD	Director of Equity and Compliance	Institutional Equity and Compliance 650 Maryville University Dr. St. Louis, MO 63141	314-529-9981	kdozier@maryville.edu
Joseph Fitzpatrick	Dean of Students	Student Life, Donius University Center 111 650 Maryville University Dr. St. Louis, MO 63141	314-529-9476	jfitzpatrick@maryville.edu

B. Non-Mandatory Reporting

Any person, whether required to do so under this policy or not, may report Sexual Harassment with any of the above identified individuals in Section III (A).

Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours

Any person who wishes to report Sexual Harassment that also constitutes a crime—such as a complaint of Sexual Assault—is encouraged to file a report with local law enforcement, in addition to a report with the University. The Town and Country Police Department may be contacted at (314) 737-4600. Such persons may contact the University Public Safety Department at (314) 529-9500, which will assist the person in notifying the appropriate law enforcement authorities. In case of emergency, a person should always dial 911. A victim may decline to notify such authorities.

IV. Confidential Resources & Reporting

Persons who wish to have a confidential conversation regarding Sexual Harassment that will not result in a report to the University may contact one of the following individuals (“Confidential Reporters”):

Name	Title	Address	Phone	Email
Medical Providers	Health and Wellness Office	University Library First Floor 650 Maryville University Dr. St. Louis, MO 63141	314-529-9520	healthandwellness@maryville.edu
Jennifer Henry	Director of the Counseling Center	University Library First Floor 650 Maryville University Dr. St. Louis, MO 63141	314-529-9556	jhenry@maryville.edu
Caitlin Layer-Gaskell	Licensed Clinical Social Worker	University Library First Floor 650 Maryville University Dr. St. Louis, MO 63141	314-529-9556	clayergaskell@maryville.edu

Verne Wilson	Licensed Professional Counselor	University Library First Floor 650 Maryville University Dr. St. Louis, MO 63141	314-529- 9556	vwilson2@maryville.edu
-----------------	---------------------------------------	---	------------------	------------------------

A University employee that participates in the University’s Survivor’s Circle program is considered a Confidential Reporter for purposes of this policy during the semester in which the employee participates in the program. For more information about the University’s Survivor’s Circle program contact Caitlin Layer-Gaskell at clayergaskell@maryville.edu.

Local hospitals also have counselors who can provide confidential counseling regarding sexual violence/assault. Conversations with these counselors are confidential and are not reported to the University without a person’s consent. These hospitals include:

Name	Address	Telephone
St. Luke’s Hospital (closest to the University’s main campus)	232 S. Woods Mill Road, Chesterfield, Missouri 63017	Main: 314-434-1500 ER: 314-205-6990
Mercy Hospital	615 S. New Ballas Road, St. Louis, Missouri 63141	Main: 314-251-6000 ER: 314-569-6090
Missouri Baptist Hospital	3015 N. Ballas Road, St. Louis, Missouri 63131	Main: 314-996-5000 ER: 314-996-5225

V. Special Guidance To Individuals Reporting Sexual Assault

Most acts of Sexual Assault are committed by a person whom the victim knows and involve the use of alcohol and/or drugs by the victim, offender, or both. In some instances, a victim will not be able to immediately understand what has happened and may be unsure if they were the victim of Sexual Assault. The University encourages any person who believes they may be a victim of Sexual Assault to contact local law enforcement and to make a report with the University in the manner set forth above. The Town and Country Police Department may be contacted at (314) 737-4600. Such persons may also contact the University Public Safety Department at (314) 529-9500, which will assist the person in notifying the appropriate law enforcement authorities. In case of emergency, a person should always dial 911. A victim may decline to notify such authorities.

If you have been a victim of Sexual Assault, do not wash or change clothes until after you are examined, as valuable evidence could be lost. Collection of hair, fibers, semen, saliva, and

anything containing DNA can be helpful in solving the case. Preservation of any relevant letters, emails, text messages, and social media communications is important as well. Preservation of evidence could be vital to establishing proof of the crime committed or in obtaining a protection order against the perpetrator.

When a victim of Sexual Assault contacts local law enforcement, a sex crimes unit may be contacted to assist in the investigation. If a student victim so requests, a representative from the Office of Residential Life or the Public Safety Department will provide support during the investigation of the incident by local law enforcement.

If a student victim of any of these crimes is uncomfortable directly contacting local law enforcement or the University Public Safety Department, the student may contact any of the individuals designated above to receive student reports of Sexual Harassment, including but not limited to the Title IX Coordinator. Such persons will assist the student in contacting local law enforcement.

University Counseling Services and several local hospitals have counselors available to assist victims of these crimes. Contact information for these resources is set forth above. In addition, victims of sexual violence/assault may contact the rape hotline offered by Women's Support & Community Services—telephone: (314) 531-2003. NOTE: Women's Support & Community Services is not affiliated with the University and will not forward a complaint of sexual violence/assault to the University without the person's consent.

Once a report of Sexual Assault is made, the victim has several options such as, but not limited to:

- Making a report with the University and obtaining Supportive Measures;
- Contacting parents or a relative;
- Seeking legal advice;
- Seeking personal counseling (always recommended);
- Pursuing legal action against the perpetrator;
- Filing a Formal Complaint; and/or
- Requesting that no further action be taken.

VI. Preliminary Assessment of Report

Upon receipt of a report made pursuant to this policy, the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls or could fall within the scope of the policy; and
- Whether the conduct, as reported, constitutes or could constitute Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sexual Harassment, even if investigated, the Title Coordinator will close the matter and may notify the reporting party if doing so is consistent with

the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other University offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

VII. Contacting the Complainant

If a report is not closed as a result of the preliminary assessment specified above and the Complainant’s identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures; to discuss and consider the Complainant’s wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

VIII. Supportive Measures

If a report is not closed as a result of the preliminary assessment specified above, the University will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the University will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The University will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The University will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the University’s ability to provide the Supportive Measures in question.

IX. Interim Removal

At any time after receiving a report of Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the University’s Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within approximately twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the University may place the Respondent on administrative leave at any time after receiving a report of Sexual Harassment, including during the pendency of the investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the University retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

X. Formal Complaint

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Sexual Harassment in accordance with this policy. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the University's Education Programs and Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by U.S. mail, or by email using the contact information specified above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the University if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. Factors the Title IX Coordinator may consider include (but are not limited to): (a) was a weapon involved in the incident; (b) were multiple assailants involved in the incident; (c) is the accused a repeat offender; and (d) is there a risk of recurring misconduct.

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the University will commence an investigation and proceed to adjudicate the matter. In all cases where a Formal Complaint is filed, the Complainant will retain their rights in the process regardless of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

XI. Consolidation of Formal Complaints

The University may consolidate Formal Complaints alleging Sexual Harassment where the allegations of Sexual Harassment arise out of the same facts or circumstances, including Formal Complaints by one Complainant against more than one Respondent, Formal Complaints by more than one Complainant against one or more Respondents, or Formal Complaints by one party against the other, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this policy to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

XII. Dismissal Prior to Commencement of Investigation

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy specified in Section I (i.e., because the alleged conduct did not occur in the University’s Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section XII, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other University offices, as appropriate. A dismissal pursuant to this section that is affirmed on appeal, is presumptively a final determination for purposes of this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

XIII. Notice of Formal Complaint

Within seven (7) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this policy or a hyperlink to this policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the Investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice;
- Notifying the Complainant and Respondent of their right to inspect and review evidence;

- Notifying the Complainant and Respondent of the University’s prohibitions on retaliation and false statements; and
- Information about resources that are available on campus and in the community.

Should the University elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the University will provide a supplemental written notice describing the additional allegations to be investigated.

XIV. Advisor of Choice

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing, the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, frustrate this policy, process, or procedures, or communicate with the University about the matter without the party being included in the communication. In the event a party’s advisor of choice engages in material violation of the parameters discussed herein, the University may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing, and requests the University to provide an advisor, the University will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The University will have sole discretion to select the advisor it provides. The advisor the University provides may be, but is not required to be, an attorney.

The University is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing and requests that the University provide an advisor.

XV. Investigation

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator (the “Investigator”) will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties. The investigation will culminate in a written investigation report, that will be submitted to the adjudicator during the adjudication process. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within thirty (30) to forty-five (45) days of the transmittal of the written notice of Formal Complaint.

During the investigation, the Investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other

inculpatory and exculpatory evidence. Notwithstanding the foregoing, the Investigator retains discretion to limit the number of witness interviews the Investigator conducts if the Investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant. The Investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

The Investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the Investigator in the Investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the Investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the University may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have ten (10) days in which to submit to the Investigator a written response, which the Investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

After the period for the parties to provide any written response has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

XVI. Adjudication Process Selection

After the Investigator has sent the investigation report to the parties, the Title IX Coordinator will transmit to each party a notice advising the party of the two different adjudication processes. The notice will explain that the hearing process is the default process for adjudicating all Formal Complaints and will be utilized unless both parties voluntarily consent to administrative

adjudication as a form of informal resolution. The notice will be accompanied by a written consent to administrative adjudication and will advise each party that, if both parties execute the written consent to administrative adjudication, then the administrative adjudication process will be used in lieu of the hearing process. Parties are urged to carefully review this policy, consult with their advisor, and consult with other persons as they deem appropriate (including an attorney) prior to consenting to administrative adjudication.

Each party will have three (3) days from transmittal of the notice specified in this section to return the signed written consent form to the Title IX Coordinator. If either party does not timely return the signed written consent, that party will be deemed not to have consented to administrative adjudication and the Formal Complaint will be adjudicated pursuant to the hearing process.

XVII. Adjudication

A. Hearing Process

The default process for adjudicating Formal Complaints is the hearing process specified in this section. The hearing process will be used to adjudicate all Formal Complaints unless both parties timely consent to administrative adjudication as specified above. The standard of evidence used to adjudicate Formal Complaints shall be a preponderance of the evidence (i.e., “more likely than not”).

1. Hearing Officer

After selection of the hearing process as the form of administrative adjudication, the Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the Investigator.

2. Hearing Notice and Response to the Investigation Report

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer’s appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of this policy and associated procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) days from the date of transmittal of the written notice.

A party’s written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history or for any other reason;

- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the procedures for the hearing noted herein;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning.

A party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.

3. Pre-Hearing Conference

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors, provided, however, that a party may request, and the hearing officer may determine in their own discretion, to conduct the pre-hearing conference by way of proximate, separate meetings with each respective party and the party's advisor. By default, the pre-hearing conference will be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

4. Issuance of Notices of Attendance

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any member of the University Community whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. In the case where the noticed person is a University employee or student, all such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

5. Hearing

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the University's Hearing Procedures. The hearing may be audio or video recorded or transcribed. The recording or transcription will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect; and

- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary University personnel. With the exception of the Investigator and the parties, witnesses will be sequestered until such time as their testimony is complete.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them after-evidence gathering phase of the investigation.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures when good cause exists to do so, and provided the minimal requirements specified in this section are met.

6. Subjection to Questioning

In the event that any party or witness refuses to attend the hearing, or attends but refuses to submit to questioning by the parties' advisors, the statements of that party or witness, as the case may be, whether given during the investigation or during the hearing, will not be considered by the hearing officer in reaching a determination of responsibility.

In applying this section, the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party or a witness's absence from the live hearing and/or refusal to submit to questioning by the parties' advisors.

7. Deliberation and Determination

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or by operation of another section of this policy. The hearing officer will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the

facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.

8. Discipline and Remedies

In the event the hearing officer determines that the Respondent is responsible for violating this policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant or others as necessary.

9. Written Decision

After reaching a determination and consulting with the appropriate University official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the University upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate University official;
- Whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator; and
- A description of the University's process and grounds for appeal.

The hearing officer's written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the University strives to issue the hearing officer's written determination within fourteen (14) days of the conclusion of the hearing.

B. Administrative Adjudication (Optional)

In lieu of the hearing process, the parties may consent to have a Formal Complaint resolved by administrative adjudication as a form of informal resolution. Administrative adjudication is voluntary and must be consented to in writing by both parties and approved by the Title IX Coordinator. At any time prior to the issuance of the administrative officer's determination, a party has the right to withdraw from administrative adjudication and request a live hearing.

If administrative adjudication is selected, the Title IX Coordinator will appoint an administrative officer. The Title IX Coordinator will see that the administrative officer is provided a copy of the investigation report and a copy of all the evidence transmitted to the parties by the investigator.

The administrative officer will promptly send written notice to the parties notifying the parties of the administrative officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; and setting a date and time for each party to meet with the administrative officer separately. The administrative officer's meetings with the parties will not be held any earlier than ten (10) days from the date of transmittal of the written notice specified in this paragraph.

A party's written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history, or for any other reason;
- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.

After reviewing the parties' written responses, the administrative officer will meet separately with each party to provide the party with an opportunity make any oral argument or commentary the party wishes to make and for the administrative officer to ask questions concerning the party's written response, the investigative report, and/or the evidence collected during the investigation.

After meeting with each party, the administrative officer will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The administrative officer will take care to exclude from consideration any evidence that the administrative officer determines should be ruled inadmissible based on the objections and arguments raised by the parties in their respective written responses to the investigation report. The administrative officer will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the facts that are

supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.

Thereafter, the administrative officer will consult with any University official and the Title IX Coordinator and will prepare and transmit a written decision, which shall serve as a resolution for purposes of informal resolution.

Transmittal of the administrative officer's written determination concludes the administrative adjudication, subject to any right of appeal.

Although the length of each administrative adjudication will vary depending on the totality of the circumstances, the University strives to issue the administrative officer's written determination within twenty-one (21) days of the transmittal of the initiating written notice.

XVIII. Informal Resolution

At any time after the parties are provided written notice of the Formal Complaint, and before the completion of any appeal, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties. Administrative Adjudication as specified above is a form of informal resolution.

Informal means of resolution may only be used with the Complainant's and Respondents' voluntary written cooperation and in coordination with the Investigator. In no case will the parties be required to "work out" the problem with one another if that is not desired.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another University official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will document the terms of the agreed resolution in writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University. Notwithstanding the forgoing if the form of informal resolution is Administrative Adjudication as discussed above, there shall not be an agreed resolution requiring the parties' signatures; instead, the determination issued by the administrative officer shall serve as the resolution and conclude the informal resolution process, subject only to any right of appeal. With the exception of a resolution resulting from the Administrative Adjudication process specified above, all other forms of informal resolution pursuant to this section are not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Other language in this section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Sexual Harassment against a student.

XIX. Dismissal During Investigation or Adjudication

The University may dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the University, as the case may be; or

- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed pursuant to this section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other University offices, as appropriate. The University retains discretion to refer and resolve a dismissed Formal Complaint through other applicable University policies.

XX. Appeal Procedures

If either party is dissatisfied with the determination of an adjudication, or dismissal of a Formal Complaint, they may appeal on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, hearing officer, or administrative officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.

No other grounds for appeal are permitted.

A party must file an appeal within seven (7) days of the date they receive notice of dismissal or determination appealed from or, if the other party appeals, within three (3) days of the other party appealing, whichever is later. The appeal must be submitted in writing to the Vice President for Academic Affairs who serves as the appeal officer. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) days. The appeal officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and transmit a written decision to the parties that explains the outcome of the appeal and the rationale.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the University strives to issue the appeal officer's written decision within twenty-one (21) days of an appeal being filed.

XXI. Concurrent University Investigation and Criminal Investigation

This policy sets forth the University's processes for responding to reports and Formal Complaints of Sexual Harassment. The University's processes are separate, distinct, and independent of any criminal processes. While the University may temporarily delay its processes under this policy to avoid interfering with law enforcement efforts if requested by law enforcement, the University will otherwise apply this policy and its processes without regard to the status or outcome of any criminal process.

Some instances of Sexual Harassment may also constitute criminal conduct. In such instances, the Complainant is also encouraged to file a report with local law enforcement and, if requested, the University will assist the Complainant in doing

NOTE: The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy (i.e., "beyond a reasonable doubt" in criminal cases versus "more likely than not" for purposes of this policy). As a result, the outcome of any criminal proceeding is not necessarily determinative of whether a violation of this policy has occurred.

XXII. Treatment Records and Other Privileged Information

Unless the University has obtained the party's voluntary, written consent to do so for purposes of the investigation and adjudication processes, the investigator and adjudicator, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be, and such records will become part of the evidence in the case available to be viewed by the other party.

XXIII. Sexual History

During the investigation and adjudication processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this section.

XXIV. Amnesty

The University's Amnesty Policy applies to this process and is available [here](#).

XXV. Presumption of Non-Responsibility

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

XXVI. Retaliation

It is a violation of this policy to engage in Retaliation. Reports and Formal Complaints of retaliation may be made in the manner specified in Sections III and X. Any report or Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Sexual Harassment, as the case may be.

The University will not retaliate or permit retaliation against an individual who reports or assists in making a report of Sexual Harassment or who participates in the investigation of a report or Formal Complaint in any way. Retaliation is a serious violation of this policy. Retaliation not only harms the individuals directly affected by it, but also undermines the confidence of others in a fair complaint resolution process. Any person found to have retaliated against another individual involved in an investigation under this policy shall be subject to appropriate disciplinary action, up to and including written reprimand, suspension, demotion, termination, or expulsion.

The University retains discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common nexus.

XXVII. Bad Faith Complaints and False Information

It is a violation of this policy for any person to submit a report or Formal Complaint that the person knows, at the time the report or Formal Complaint is submitted, to be false or frivolous. It is also a violation of this policy for any person to knowingly make a materially false statement during the course of an investigation, adjudication, or appeal under this policy. Violations of this section are not subject to the investigation and adjudication processes in this policy; instead, they will be addressed under the Code of Student Conduct in the case of students and other University policies and standards, as applicable, for other persons.

XXVIII. Conflicts of Interest, Bias, and Procedural Complaints

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. Any party who believes one or more of these University officials has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal or otherwise.

XXIX. Objections Generally

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the University may evaluate the matter and address it, if appropriate.

XXX. Constitutional Rights and Academic Freedom

The University will construe and apply this policy consistent with its Freedom of Expression Policy and the principles of academic freedom specified in the Faculty Handbook. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the Freedom of Expression Policy and/or the principles of academic freedom specified in the Faculty Handbook.

XXXI. Confidentiality

The University will keep confidential the identity of any individual who has made a report or Formal Complaint of Sexual Harassment or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sexual Harassment or Retaliation including any Respondent, and the identity of any witness. The University will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records. Notwithstanding the foregoing, the University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the University's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this policy.

While the University will maintain confidentiality specified in this section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.

NOTE: Certain types of Sexual Harassment are considered crimes for which the University must issue timely warnings and/or disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These warnings and disclosures will be made without including personally identifying information.

XXXII. Other Violations of this Policy

Alleged violations of this policy, other than violations of the prohibitions on Sexual Harassment and Retaliation, will be subject to review under the [Student Code of Conduct](#) for students, the Faculty Handbook for faculty, or other University policies and standards for employees.

XXXIII. Training

The University will also ensure that University officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, administrative officers, informal resolution facilitators, University provided advisors, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.

XXXIV. Recordings

Wherever this policy specifies that an audio or video recording will be made, the recording will be made only by the University and is considered property of the University, subject to any right of access that a party may have under this policy, FERPA, and other applicable federal, state, or local laws. Only the University is permitted to make audio or video recordings under this policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

XXXV. Vendors, Contractors and Third Parties

The University does business with various vendors, contractors, and other third-parties who are not students or employees of the University. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the University retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the University retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

XXXVI. Other Forms of Discrimination

This policy applies only to Sexual Harassment. Complaints of other forms of sex discrimination are governed by the University's [Non-Discrimination Policy](#).

XXXVII. Signatures and Form of Consent

For purposes of this policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

XXXVIII. Deadlines, Time, Notices, and Method of Transmittal

Where this policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this policy are subject to modification by the University where, in the University's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the University's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The University officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the University.

The parties will be provided written notice of the modification of any deadline or time period specified in this policy, along with the reasons for the modification.

Where this policy refers to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in this policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this policy will be email using University email addresses.

A party is deemed to have received notice upon transmittal of an email to their University email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in this policy, the sufficient time to be provided will be determined in the sole discretion of the University, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant University officials; approaching holidays or closures; and the number and length of extensions already granted.

XXXIX. Outside Appointments, Dual Appointments, and Delegations

The University retains discretion to retain and appoint suitably qualified persons who are not University employees to fulfill any function of the University under this policy, including, but not limited to, the investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The University also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given University official under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

XL. Recordkeeping

The University will retain those records specified in 34 C.F.R. § 106.45(b)(10), including recordings, for a period of seven (7) years after which point in time they may be destroyed, or continue to be retained, in the University's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

XLI. Definitions Herein

Words used in this policy will have those meanings defined herein and if not defined herein will be construed according to their plain and ordinary meaning.

XLII. Discretion in Application

The University retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the University's interpretation or application differs from the interpretation of the parties.

Despite the University's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the University retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy and procedures described herein are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the University retains discretion to revise this policy and the procedures at any time, and for any reason. The University may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

Policy Revised August 2020