8.8 Sexual and Gender-Based Misconduct Policy

Loyola will interpret and apply this policy based on any judicial orders or outcomes and in accord with any updated guidance regarding the implementation of the 2020 Title IX regulations from the Office of Civil Rights or any updated guidance or laws from the state of the Maryland regarding sexual and gender-based misconduct policies.

8.8.1 Scope of Sexual and Gender- Based Misconduct Policy

The Sexual and Gender-Based Misconduct Policy prohibits discrimination on the basis of sex, in accordance with Title IX, Maryland state law, and in accordance with the University's values and standards of conduct. This policy prohibits sexual harassment, domestic violence, dating violence, stalking and sexual assault of students, employees, or program participants of Loyola University Maryland by anyone on University property or at University-sponsored activities, and as otherwise included within the scope of this policy. This policy applies to situations which the person accused of a violation ("respondent") is a student, employee, or program participant at Loyola University Maryland. This policy also applies to conduct prohibited by Title IX and conduct which, although not falling under Title IX, violates the University's own conduct policies.

Under Title IX regulations, universities are required to distinguish between prohibited conduct that is "under Title IX" and prohibited conduct that is a violation of university policy. Under Title IX, the University must dismiss a Formal Complaint or the part of the allegations in a Formal Complaint, if applicable, where Sexual Harassment is alleged and where:

1. The conduct alleged does not meet the definition of Sexual Harassment;
2. The alleged conduct did not occur in the University's education program or activity; or,
3. The alleged conduct did not occur against a person in the United States.

Additionally, current Title IX regulations do not apply to incidents that occurred prior to August 14, 2020. Incidents that occurred prior to August 14, 2020 will be investigated and adjudicated under the University's General Sexual Misconduct procedures.

A dismissal under this provision only applies to allegations of Sexual Harassment (as defined below) under Title IX. In such an instance, the University may still investigate a Formal Complaint for other alleged violations under this Policy as discussed in great detail below, although it will not technically be "under Title IX."

Because of the distinction between conduct "under Title IX" and other prohibited conduct, the University does not have a single complaint and resolution mechanism for all complaints of Sexual and Gender-Based Misconduct. As a result, the procedures applicable to the investigation and resolution of a complaint will depend on whether the complaint is "under Title IX" or not. The Policy below describes how the University will determine whether the Title IX Grievance Procedures will apply or, if instead, the University's General Sexual Misconduct Procedures (defined below) apply.

This policy distinguishes between reporting sexual misconduct incidents and filing Formal Complaints. Reporting Sexual Misconduct incidents informs the University of the incident, which allows the institution to provide Supportive Measures (as outlined in this Policy) to the Complainant and does not necessarily result in the initiation of the investigation and resolution procedures described in this section. All Complainants who report incidents of Sexual Misconduct will be offered individualized Supportive Measures. If Complainants wish to initiate the Title IX Grievance or General Sexual Misconduct Procedures (defined below), they should file a Formal Complaint. As explained in more detail below (including exceptions and details as

to applicability), generally speaking, those procedures may involve an investigation into the incident and a hearing to determine the responsibility of the Respondent.

8.8.2 Related policies
Allegations against student employees in their capacity as employees are treated as claims against an employee for the purposes of determining the proper procedure to apply.

Harassment on the basis of a protected classification is also prohibited by University policy and may be the subject of a complaint using the Procedures for Resolution of Complaints Against Employees under the Harassment and Discrimination Policy if the respondent is an employee (see Section 8.7) or using the process outlined within section 7. Bias Process of the community standards if the respondent is a student.

8.8.3 Non-Discrimination Statement
Loyola University Maryland does not discriminate on the basis of race, sex, color, national or ethnic origin, age, religion, disability, marital status, sexual orientation, gender identity, genetic information, military status, or any other legally protected classification covered by federal or state law in the administration of any of its educational programs and activities or with respect to admission or employment. All requirements and protections are equitably provided to individuals regardless of their status as a complainant, respondent, or witness. The designated compliance officer to ensure compliance with Title IX of the Education Amendments of 1972, as amended, the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended, is David Tiscione, Director of Title IX, Compliance, and Assessment, 105 Jenkins Hall, 410-617-5171, dmtiscione@loyola.edu. Loyola University is authorized under Federal Law to enroll non-immigrant, alien students.

8.8.4 Definitions
Advisor means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the Sexual and Gender-Based Misconduct Policy and to advise the party on that process. In hearings for behavior that fall under the Title IX Grievance Procedures, the advisor may conduct cross-examination for the party. The advisor may not cross-examine parties or witnesses in hearings that fall within the University's General Sexual Misconduct Procedures.

Appellate body refers to the individuals authorized to hear appeals. For student cases, the University Board on Discipline comprises the appeals hearing board. For employee cases, an independent appeals decision-maker(s) will be appointed by the University's Title IX Coordinator.

Business Day **means a day when the University is in normal operation (excludes weekends, holidays, and University breaks) unless otherwise specified.**

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual misconduct or retaliation for engaging in a protected activity.

Complaint (formal) means a document filed/signed by a complainant who is enrolled or is participating in an educational program or activity at the University or signed by the Title IX Coordinator or designee alleging sexual misconduct or retaliation for engaging in a protected activity against a respondent and requesting that the University investigate the allegation. Formal complaints may also be received from complainants with respect to claims falling outside Title IX and which would be subject to the University's General Sexual Misconduct procedures.

Confidential Resource means an employee who is not a Mandated Reporter of notice of sexual harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

Consent is defined as an affirmative indication by words and/or actions of a voluntary agreement to engage in the particular sexual act or conduct in question. Consent for one sexual act or conduct does not constitute consent to all sexual acts or conduct. Consent can be withdrawn at any time, and once withdrawal of consent has been expressed, sexual activity must cease. Consent cannot be obtained through the use of force, threat, intimidation, or coercion. Coercion is unreasonable pressure for sexual activity and will be determined by the frequency, intensity, context, and duration of the pressure. Silence or absence of resistance on the part of an individual does not constitute their consent. Consent cannot be given by someone who is incapacitated due to consuming drugs or alcohol or for any other reason (including but not limited to being unconscious, asleep, or otherwise unaware that sexual activity is occurring). Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). While incapacitation may result from the use of alcohol and/or drugs, incapacitation is a state beyond drunkenness or intoxication. Incapacitation may also exist because of a physical, mental, or developmental disability. The question of incapacitation will be examined objectively from the perspective of the respondent i.e., whether a reasonable, sober person in place of the respondent should have known the condition of the complainant based on the apparent indications of incapacitation, which may include, but are not limited to, acting confused or incoherent, difficulty walking or speaking, and vomiting.

Day means a calendar day regardless of whether the University is in normal operation unless otherwise specified.

Decision-maker(s) refers to those who have decision-making and sanctioning authority within the University's hearing process for employees.

Directly Related Evidence is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the Decision-maker(s) or hearing panel. Compare to Relevant Evidence, below.

Education program or activity means locations, events, or circumstances where the University exercises substantial control over both the respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Hearing Panel refers to those who have decision-making and sanctioning authority within the University's hearing process for students.

Informal Resolution a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.

Investigator means the person(s) authorized by Recipient to gather facts about an alleged violation of this 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.

Mandated Reporter means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of sexual harassment and/or retaliation with the appropriate Title IX Coordinator or deputy.[1]

Notice means that an employee, student, or third-party informs the Title IX Coordinator or Title IX Deputy Coordinators or Officials with Authority of the alleged occurrence of sexual harassing, discriminatory, and/or retaliatory conduct.

Parties include the complainant(s) and respondent(s), collectively.

Relevant Evidence is evidence that tends to prove (inculpatory) or disprove (exculpatory) facts material to the allegations at issue in the complaint.

Remedies are post-resolution actions directed to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct under this policy.

Resolution means the result of an informal or formal grievance proceeding.

Sanction means a consequence imposed by the University on a respondent who is found to have violated this policy.

Sexual Harassment is the umbrella category of sexual misconduct including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See 8.8.17.1 Prohibited Conduct section for greater detail.

Title IX Coordinator is 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 this policy may also encompass Title IX Deputy Coordinators for specific roles and tasks.

Witness (Character) is defined as an individual who provides evidence as to a party's positive or negative character or the party's reputation in the community.

Witness (Expert) is defined as an individual who provides opinion evidence during a proceeding based on their specialized knowledge, training, or experience.

Witness (Fact) is defined as an individual who provides inculpatory or exculpatory evidence based on their personal knowledge of the allegations on which the proceedings are based.

8.8.5 Disability Accommodations

Parties may request reasonable accommodations for disclosed disabilities to the appropriate Title IX Coordinator at any point before or during the Sexual and Gender-Based Misconduct Policy process that do not fundamentally alter the Process. The appropriate Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the

[1] 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 in this Policy.

parties, even where the parties may be receiving accommodations in other institutional programs and activities.

8.8.6 Education and Prevention of Sexual Misconduct

Members of the University community are expected to respect the rights, dignity, and personhood of others. The Sexual Violence Prevention, Education, and Response Coordinator is available to meet with students who experience sexual misconduct. The Sexual Violence Prevention, Education and Response Coordinator and the Title IX Coordinators or designees offer prevention and bystander intervention programs throughout the academic year. The Counseling Center provides qualified professionals who can help students clarify their feelings about sexuality and intimacy and help students develop assertiveness skills that may be useful in managing potentially difficult situations. The Counseling Center staff also provides direct service and referrals for students who experience sexual misconduct. The Employee Assistance Program is a confidential resource available for employees 24 hours a day at 1-800-765-0770. Additionally, the University has formalized agreements with local law enforcement and designated rape crisis centers governing interactions between the University and those organizations surrounding incidents of sexual misconduct.

Educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking are offered at New Student Orientation, in new employee orientation, in the residence halls, and on campus throughout the academic year. Such prevention and awareness programs include a statement that the University prohibits all forms of sexual misconduct, definitions of various types of sexual misconduct and of consent, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential sexual violence.

8.8.7 Title IX Independence and Conflict of Interest

The Title IX Coordinator oversees the implementation of the Title IX process and acts with independence and authority free from bias and conflicts of interest. The Title IX Deputy Coordinator for Students oversees all resolutions under this policy and these procedures related to complaints where the student is the respondent. The Title IX Deputy Coordinator for Faculty, Staff, and Administrators oversees all resolutions under this policy and these procedures related to complaints where an employee is the respondent. The Title IX Coordinator and Deputies receive annual training and are trained to ensure they are not biased for or against any party in a specific case, or for or against complainants and/or respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Chief Equity and Inclusion Officer. Concerns of bias or a potential conflict of interest by any Title IX Deputy Coordinator should be raised with the Title IX Coordinator. Upon receiving a concern of bias or conflict of interest, the Chief Equity and Inclusion Officer or the Title IX Coordinator may designate an appropriate person to review and respond regarding the concerns raised, including recommending action to eliminate any bias or conflict of interest that might be found.

Title IX Coordinators may appoint external, independent parties with appropriate training to fill any of the defined roles within this policy or related procedures. Any external parties retained under this section will agree to abide by all confidentiality provisions set forth within this policy or related procedures and applicable law.

8.8.8 Reporting Sexual Misconduct

Allegations or notice of sexual misconduct on University property, at a University-sponsored event regardless of location, or in the administration of any of Loyola's educational programs or activities, or inquiries about or concerns regarding this policy and procedures, should be directed

to one of the following individuals:

Title IX Coordinator for the University:
David Tiscione, Director Title IX, Compliance, and Assessment
105 Jenkins Hall
4501 North Charles Street, Baltimore, MD 21210
410-617-2763
dmtiscione@loyola.edu

Title IX Deputy Coordinator for Students:
Sydney Quantock, Assistant Director Title IX, Compliance, and Assessment
105 Jenkins Hall
4501 North Charles Street, Baltimore, MD 21210
410 617-2842
squantock@loyola.edu

Title IX Deputy Coordinator for Faculty, Staff, and Administrators:
Vacant (report to Title IX coordinator)

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

Reports about the Title IX Coordinator violating the Sexual and Gender-Based Misconduct Policy should be made to the Title IX Deputy Coordinator for Faculty, Staff, and Administrators. Upon a report regarding an allegation about the Title IX coordinator violating the Sexual and Gender-Based Misconduct Policy being filed, the Title IX coordinator will be required to recuse themselves from oversight of Title IX compliance related to that complaint.

8.8.8.1 Officials with Authority

The University has determined a list of administrators who are Officials with Authority (OWA) to institute corrective measures. In addition to the Title IX Coordinator and Deputies listed above, the University has designated Title IX Intake Officers as OWAs.

8.8.8.1.1 Title IX Intake Officers

Administrators designated as Title IX Intake Officers are available to meet with complainants and other reporting parties to review their rights, resources, and reporting options that are available both on and off-campus, including offering and implementing supportive measures, regardless of whether they desire to file a complaint.

Title IX Intake Officers for Students

- Dennis Velez, Associate Director ALANA Services
  Student Center Suite 315F
  410-617-2004
  dvelez@loyola.edu
- Kelli Walker, Program Assistant for Title IX
  105 Jenkins Hall
  410-617-7319
  kawalker1@loyola.edu
- Neil Andrito, Director of Residence Life & Housing
  Seton Court Suite 08a
  410-617-2488
  nfandrito@loyola.edu
- Rhona Little, Diversity and Inclusion Specialist
  Humanities 243g
  410-617-2082
  rlittle1@loyola.edu
- Stepf Diaz, Associate Director of Student Staff Development, Residence Life & Housing
  Seton Court, O8A
  410-617-5081
  sdiaz@loyola.edu
- Teddi Burns, Associate Athletic Director/Senior Woman Administrator, Facilities & Operations
  Student Center Suite 302
  410-617-2643
  tburns@loyola.edu

Title IX Intake Officers for Faculty, Staff, & Administrators

- Toya Dailey-Smith
  Sr. HR Partner
  5000 York Rd., 2nd Floor
  410-617-1360
  tdailey-smith@loyola.edu
- Bonnie Wrzosek
  HR Partner
  5000 York Rd., 2nd Floor
  410-617-1367
  bwrzosek@loyola.edu

8.8.8.2 Mandated Reporters

The University has also classified the following employees as Mandated Reporters of knowledge that a member of the community is experiencing harassment, discrimination, and/or retaliation under this policy: any University administrator, staff with supervisory responsibilities, faculty member, campus police, athletic coach, athletic trainer, graduate resident coordinator, or resident assistant. Campus Police and the Residence Life and Housing on-call staff can be reached at 410-617-5010. A report of alleged sexual misconduct against any member at the University may be made by any community member, guests, visitors and other third parties by contacting the appropriate Title IX Coordinator or Title IX Intake Officer listed above. The University encourages all members of the community to report sexual misconduct, whether or not they are the person who allegedly experienced a violation of this policy. When a person other than a complainant makes a report, the appropriate Title IX Coordinator (or designee) will contact the

complainant to discuss the report and whether they wish to proceed with a formal complaint.

Generally, disclosures in climate surveys, classroom writing assignments, discussions or group presentations, in conversations heard indirectly among students (e.g. in a hallway), human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the complainant clearly indicates that they desire a report to be made or seek a specific response from the University.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

8.8.8.3 On-Campus Reporting Options

Reports can also be made anonymously or identified using the methods outlined below. It should be noted that the University's ability to investigate or act upon anonymous reports may be limited.

Additional reporting methods:

- Anonymous Information Form, found at https://www.loyola.edu/department/public-safety/anonymous-information-form
- EthicsPoint, found at https://secure.ethicspoint.com/domain/media/en/gui/18799/index.html
- Bias Related Behaviors Report, found at www.loyola.edu/reportbias
- Sexual Violence, Relationship Violence or Stalking Report found at https://cm.maxient.com/reportingform.php?LoyolaUnivMD&layout_id=4

When making a report, the following information is requested as part of the report: Name(s) of individual(s) alleged to have violated the Sexual and Gender-Based Misconduct Policy and a clear statement explaining the date, time, and location including the nature and circumstances of the incident. It is important to provide as much information as possible as this report may serve as a basis for investigation. If a formal grievance process is initiated, the report will be shared with the respondent, investigator, hearing panel members, decision-maker(s), and administrators who oversee the grievance process, and the appropriate Title IX Coordinator (or designee), among others, and a copy will be provided to the complainant.

Upon receiving a report, the complainant and/or reporting party, if different from the complainant, will be provided with a written explanation of their rights and options which, in addition to the information described in this section, will include information about legal service organizations and referral services. The Title IX Coordinator seeks to determine if the person wishes to make a formal complaint, and will assist them to do so, if desired. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint.

8.8.8.4 Amnesty

Students who report sexual misconduct, or participate in an investigation as a witness, will not be subject to disciplinary action for their own personal involvement with alcohol and/or other drugs at or near the time of the incident, unless the involvement was reasonably likely to place the health or safety of another individual at risk. The University may initiate an educational discussion or pursue other educational remedies regarding the alcohol and/or other drugs.

8.8.8.5 Reporting to law enforcement

The University encourages any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking to report the incident to the Baltimore City Police or local law enforcement and encourages students who experience these behaviors to additionally consult their parents/guardians. The director of public safety (or their designee) can assist the complainant in contacting the appropriate law enforcement officials and in working with these officials to pursue criminal charges against the respondent. Complainants also have the option to decline to notify law enforcement authorities.

- **Campus Public Safety**
  Emergency: 410-617-5911
  Non-Emergency: 410-617-5010, ext. 5010 from a campus phone
  Escort: 410-617-5566
- **Baltimore City Police**
  Emergency: 911

Protective orders and peace orders may be sought through the court system. A complainant interested in a no-contact order at Loyola may contact the Title IX Coordinator.

Actions by the police or criminal courts do not in any way preclude the complainant from utilizing the University's grievance process simultaneously or at a later date. Similarly, using the University's grievance process does not preclude the pursuit of criminal charges.

Reports of violations under this Policy may also constitute violations of state and local law. University officials are required to document certain reports of sexual misconduct for Clery Act reporting purposes. There will be no personally identifiable information about the complainant shared in that report. If the University is required to notify the community of the incident, including recording the assault in the Daily Crime Log or through the issuance of a Timely Warning Notice, no identifying information will be included to the extent permissible by law.

8.8.8.6 Confidential resources

If an individual has experienced sexual misconduct but does not want to report it to a University official, the individual may meet with a confidential resource.

8.8.8.6.1 On-campus Confidential Resources

All of the persons and organizations listed below are confidential for purposes of reporting sexual misconduct. Reports made to a licensed counselor, clergy acting in their pastoral role, a treating health care provider, or the Sexual Violence Prevention, Education, and Response Coordinator are confidential and will not be reported to University officials without the individual's permission unless an imminent threat exists or a child sex offense is disclosed. Confidential resources may be required to report statistical information, without personally identifiable data, for Clery Act reporting.

- **Counseling Center:**
  Humanities Building, room 150
  410-617-CARE (2273)
  REACT online:

- **Women's Center:**
  Melissa Lees, Sexual Violence Prevention, Education, and Response Coordinator
  410-617-6769
- **Employee Assistance Program:**
  1-800-765-0770
  24-hour confidential resource for employees

8.8.8.6.2 Off-campus Confidential Resources

All of the persons and organizations listed below are confidential and will not make reports to Loyola University Maryland without your expressed consent unless imminent threat exists or a child sex offense is disclosed.

- **TurnAround** (Off Campus):
  443-279-0379
  24-hour counseling and support for sexual assault and domestic violence
- **House of Ruth** (Off Campus):
  410-889-7884
  24-hour domestic violence resource
- **Hopeworks** (Off Campus):
  410-997-2272
  24-hour domestic violence resource, Howard County.
- **Sexual Assault /Domestic Violence for Baltimore and Carroll Counties** (Off Campus):
  410-828-6390
  24-hour hotline
- National confidential resources (available 24/7) include, but are not limited to: **RAINN (Rape, Abuse & Incest National Network)** which operates the **National Sexual Assault Hotline** at 1-800-656-HOPE (4673) and an online chat with a trained staff member; and **National Domestic Violence Hotline** at 1- 800-799-7233 or TTY at 1-800-787-3224 with an online chat option

8.8.8.7 Preservation of Evidence and Seeking medical assistance

This section will discuss where and how people who have experienced sexual misconduct can seek medical assistance. The section will also discuss how to preserve evidence when an individual experiences sexual misconduct.

8.8.8.7.1 Seeking Medical Assistance

Complainants are encouraged to seek medical assistance in cases of physical or sexual assault. Upon request, campus police will provide transportation to Mercy Medical Center, designated as one of the city's rape treatment centers. Mercy Medical Center has trained nurses who perform the Sexual Assault Forensics Exam (SAFE) up to 5 days or 120 hours after the assault occurred. If an individual experienced an assault that occurred more than 5 days or 120 hours prior and wants to receive a SAFE, they should contact Mercy Medical Center, Title IX, or the Sexual Violence Prevention, Education, and Response Coordinator.

During a SAFE, sexual assault nurse examiners (SANEs) will provide victim services, including treatment of injuries and steps to address concerns of pregnancy (if applicable) and/or sexually transmitted infections. Mercy Medical Center also has trained SANEs who perform Interpersonal Violence (IPV) Exams for individuals who have experienced dating or domestic violence and will

provide victim services including treating any emergent medical needs and providing written and photographic documentation of any injuries. An on-call University staff member may also accompany and assist a student at the hospital.

A complainant does not have to decide whether or not to file criminal charges before obtaining a SAFE. SAFEs are free, and the evidence will be kept in a secured locker indefinitely. There is no statute of limitations on filing a criminal complaint for felony crimes in Maryland. If a complainant wishes to remain anonymous, they can have the exam listed as a Jane Doe/John Doe for confidentiality. IPV exams are not free of charge and can be billed to insurance. If the person who experienced interpersonal violence is uninsured, Mercy Medical Center can discuss options for financial assistance. IPV exams cannot be listed anonymously in the same way SAFEs can. Having a forensic exam is an important step to preserve evidence for a criminal offense if criminal charges are filed. The contact information for the hospital in Baltimore City is:

- **Mercy Medical Center**
  300 St. Paul Street
  Baltimore, MD
  410-332-9477

8.8.8.7.2 Preserving evidence

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. The following actions are recommended steps to preserve evidence.

- Sexual assault:
  - It is recommended that the complainant not take a shower or wash or discard clothing they were wearing at the time of the assault.
  - All clothing (including underwear) should be put into a paper bag and brought to the hospital.
  - Preservation of any related or electronic communications (e.g., pictures, videos, texts, social media posts, etc.) is recommended.
- Dating or Domestic Violence
  - Log any incident of abuse (verbal, physical, emotional, or otherwise). Suggested steps for logging incidents can be found below in the section on preserving evidence in stalking incidents.
  - Take timestamped photos of injuries or any damage to property.
  - If you are injured during an incident, seeking medical attention may be needed.
- Stalking
  - It is recommended the complainant preserve evidence of contact or attempted contact by the respondent. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number. Complainant should:
    - 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 timestamped 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.
- Resources such as a stalking log, which can be accessed on the Title IX website can be useful to track contacts and attempted contacts.

8.8.9 Supportive Measures

Upon receiving notice or a complaint, the appropriate Title IX Coordinator (or designee) will promptly offer supportive measures to the parties designed to restore or preserve access to the University's education program, activity, or work environment. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge and can include actions deemed necessary to protect the well-being of the individuals involved in cases of sexual misconduct, as well as the educational environment of the University community. These supportive measures may include but are not limited to: counseling, no contact orders, relocating residence hall assignments, restricting access to certain campus buildings, changes to class schedules, assistance with rescheduling an academic assignment (paper, exam, etc.), tutoring support, changes to work schedules/situations, changes to work locations, leaves of absences, transportation assistance and escorts to and from campus locations, increased security and monitoring of certain areas, and other measures for safety as necessary. Additionally, the University may act to remove a respondent entirely or partially from its education program or activities on an emergency basis as outlined in 8.8.12 Emergency Removal and Administrative Leave below.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

8.8.10 When a Complainant Does Not Wish to Proceed

To initiate a complaint under the Sexual and Gender-Based Misconduct Policy, a complainant would need to file a formal complaint. The University understands that some complainants may seek confidentiality with respect to a report of sexual harassment or other sexual misconduct, including requesting that they not be identified to the respondent. Due to the usually private nature of these actions and the need to ensure a fair process for all involved, the University may not be able to pursue charges of sexual misconduct unless the complainant is willing to be identified. However, in cases where there is a witness to the alleged violation, or in cases where pursuing the case is necessary to protect the University community, the University reserves the right to pursue a case to its conclusion. If the complainant requests confidentiality or that a report not be pursued, the Title IX coordinator or designee will evaluate the request for confidentiality considering its obligation to maintain a safe campus environment for all. While rare, the Title IX coordinator may determine that the complainant's request for confidentiality cannot be complied with fully. The goal is to provide the complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

The appropriate Title IX Coordinator's decision to sign a formal complaint on behalf of the complainant should be based on whether there is a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community, such as where multiple reports have been received about the same respondent, violent acts or weapons are involved, or the incident involved the use of date-rape drugs. Additionally, the Title IX Coordinator may be compelled to sign a formal complaint on behalf of the complainant if the person alleged to have engaged in conduct prohibited by this policy is an employee.

The appropriate Title IX Coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and the University's ability to pursue a formal grievance process fairly and effectively. The University will dismiss complaints as outlined in section 8.8.17.8 Dismissal of a formal complaint (Mandatory and Discretionary).

When the appropriate Title IX Coordinator executes the written complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the complainant (or their advisor) may have as much or as little involvement in the process as they wish. The complainant retains all rights of a under this policy irrespective of their level of participation.

In cases in which the complainant requests confidentiality or no formal action and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the complainant and the community but will not otherwise pursue formal action.

If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. However, delays in filing a formal complaint may cause limitations on access to evidence, or present issues with respect to the status of the parties. Upon making a formal complaint, a complainant has the right, and can expect, to have allegations taken seriously by University, and to have the incidents investigated and properly resolved through these procedures.

8.8.11 Promptness

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Generally, formal complaints can take at least 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the procedures will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

8.8.12 Emergency Removal and Administrative Leave

8.8.12.1 Emergency Removal for Student Respondents

The University can act to remove a student respondent entirely or partially from its education program or activities 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 arising from the allegations of sexual harassment justifies removal and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This process will be implemented as outlined in University Regulations and Policies II.B Immediate Removal From Campus of the Community Standards.

8.8.12.2 Administrative Leave for Employee Respondents

The University retains the authority to place a non-student employee respondent on

administrative leave during the Title IX Grievance Procedures, consistent with section 1.29 in the Staff and Administrator Policy Manual or "Article Eleven: Suspension" in the Faculty Handbook".

8.8.13 Determining Applicable Procedures

Formal Complaints falling "under Title IX" as described in the "Scope" section above will be investigated and adjudicated by the procedures outlined in the Student Respondent Title IX Grievance Procedures- Hearing procedures for incidents that fall within Title IX jurisdiction for student respondents and in the Employee Respondent Title IX Hearing Process for employee respondents. Together, these procedures for complaints falling "under Title IX" are referred to as the "Title IX Grievance Procedures."

The University also may address complaints outside the jurisdiction outlined above – i.e., not occurring "under Title IX" – that effectively deprive someone of access to the University's educational program or that are otherwise in violation of this policy but not conduct prohibited by Title IX. The University may also address complaints involving off-campus, study abroad programs, and/or online conduct when the appropriate Title IX Coordinator (or designee) determines that the conduct affects a substantial University interest. Complaints that do not fall "under Title IX" will be acted upon, investigated, and adjudicated by the procedures outlined in Student Respondent General Sexual Misconduct Process for students and in section 8.7 under the Harassment and Discrimination Policy and Procedures for employees. Together, these procedures for complaints that do not fall "under Title IX" are referred to as the "University's General Sexual Misconduct Procedures."

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

a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;

b. Any situation in which it is determined that the respondent poses an immediate threat to the physical health or safety of any student or other individual;

c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or

d. Any situation that is detrimental to the educational interests or mission of the University.

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

Further, even when the respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the complainant by contacting the appropriate Title IX Coordinator (or designee).

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

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

When the respondent is enrolled in or employed by another institution, the appropriate Title IX Coordinator (or designee) can assist the complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the appropriate Title IX Coordinator (or designee) may be able to advocate for a complainant who experiences discrimination in an externship, study abroad program, external work commitment, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the complainant.

8.8.14 Time Limits on Reporting

There is no time limitation on reporting incidents and/or filing complaints to the University. However, if the respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on reports or formal complaints is significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) and is at the discretion of the appropriate Title IX Coordinator (or designee), who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. When a report or formal complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct.

8.8.15 Retaliation

Any retaliation, reprisal, or intimidation directed toward a complainant or anyone else as a result of participating in a protected activity is strictly prohibited. Protected activity under this policy includes reporting an incident that may implicate the student/employee code of conduct, participating in the student conduct or grievance process, supporting a complainant or respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of the student/employee code of conduct. Any incidents of retaliation by a student should be reported immediately to Residence Life and Housing, Student Conduct, or the appropriate Title IX Coordinator (or designee) and for incidents by employees, they should be reported to the appropriate Title IX Coordinator. Incidents of retaliation are considered a serious violation. Allegations of retaliation are handled in accordance with the normal rules and procedures of the student conduct process, and students alleged to have violated this policy may be charged with 17. Retaliation. Any employee who is alleged to have violated this provision may be subject to disciplinary action under section 1.28 Discipline under Staff and Administrator Policy Manual.

It is prohibited for the University or any member of the University's community 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 this policy and procedure.

Charging an individual under the appropriate disciplinary process under the student code of conduct for students and the Staff and Administrator Policy Manual for employees and the Faculty Handbook for faculty for making a materially false statement in bad faith in the course of

a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

8.8.16 Recordkeeping

The University will maintain for a period of seven years records of its Title IX Grievance Process, including:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the respondent;
3. Any remedies provided to the complainant 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; and
6. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, 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; and
    c. If no supportive measures were provided to the complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
7. All materials used to train Title IX Coordinators, investigators, decision-makers, hearing panel members, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the Title IX website.

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

8.8.17 Complaint Process -- Applicable to Title IX Grievance Procedures and General Sexual Misconduct Procedures

The University's procedures provide for a prompt, fair, equitable, and impartial investigation and resolution of all formal complaints of sexual misconduct. These procedures will allow for all parties to be heard. Participants will be treated with dignity, respect, and sensitivity. A respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the applicable grievance process. The hearing panel or decision-maker will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. Complaints regarding alleged violations of the sexual misconduct policy can be resolved informally or formally.

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

While the University may not control websites, social media, and other venues in 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 Snaps or

other social media, unwelcome sexting, revenge porn, 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.

8.8.17.1 Prohibited Conduct

8.8.17.1.1 Definitions of Prohibited Conduct that May be Subject to the University's Title IX Grievance Procedures

Pursuant to Title IX, Sexual Harassment is an umbrella term which includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Each offense will be defined below.

Sexual Harassment defined as conduct on the basis of sex which may include such behavior as unwelcome sexual advances, requests, and other verbal, written, or electronic communications or physical conduct of a sexual nature when (1) an employee of the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct; or (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Sexual assault is defined as penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant. This definition includes any gender of the complainant or respondent.

Fondling is defined as the touching of the private body parts, including but not limited to breasts, buttocks, or groin of another person, for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity[2].

Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is defined as non-forcible sexual intercourse with a person who is under the statutory age of consent which is 16 years of age in the state of Maryland (which means the victim must be under 16); however, 14- and 15-year-olds may consent if the offender is less than four years older than the victim.

Dating Violence encompasses a wide range of behaviors including sexual assault, physical abuse and other forms of violence[3] committed by a person who is or has

[2] This would include someone (person A) making another person (person B) touch their (person A) private body parts sexually without their (person B) consent.

[3] Violence under dating violence and domestic violence includes but is not limited to the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse. Economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or

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.

Domestic Violence encompasses a wide range of behaviors including sexual assault, physical abuse and other forms of violence[3] committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with or has cohabitated with, the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. A course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. A reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

8.8.17.1.2 Definitions of Prohibited Conduct that may be Subject to the University's General Sexual Misconduct Grievance Procedures

All of the conduct described above in the "Definitions of Prohibited Conduct that May be Subject to the University's Title IX Grievance Procedures" is also subject to the University's General Sexual Misconduct Grievance Procedures where the University determines that such conduct may not be addressed "under Title IX" and when the appropriate Title IX Coordinator (or designee) determines that the conduct affects a substantial University interest.

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manipulation to restrict a person's access to money, assets, credit, or financial information; unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty. Technological Abuse means an act or pattern of behavior that is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

The following behaviors that fall outside of the Title IX Grievance Procedures will be adjudicated under the University's General Sexual Misconduct Procedures (i.e., Student Respondent General Sexual Misconduct Process) in the Community Standards for students and the Harassment and Discrimination Policy and Procedures for employees) and may be included in a formal complaint as collateral misconduct allegations under the Title IX Grievance Procedures.

Harassment under this section means unwelcome verbal, written or physical conduct based on sex, sexual orientation and/or gender identity, that has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile or offensive environment.

Sexual exploitation means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Examples include but are not limited to non-consensual photography, video-, or audio- recording of sexual images or activity, distributing images of sexual activity without consent, allowing others to observe a consensual sexual act without the prior knowledge or consent of all involved parties, and voyeurism.

Student Quid Pro Quo Sexual harassment is a form of harassment that consists of unwelcome sexual advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when a student of the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct allegations (e.g., vandalism, theft, physical abuse of another).

8.8.17.2 Training of Grievance Process Officials

Investigations and hearings will be conducted by officials who have received annual training on a number of areas including, but not limited to, the definitions of sexual harassment, domestic violence, dating violence, sexual assault, and stalking; the scope of the University's education program or activity; how to conduct an investigation and grievance process, including hearings, appeals and informal resolution processes; how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers will also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will also receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Any materials used to train these individuals will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints for prohibited conduct under this section. All training materials will be posted on the Title IX website.

8.8.17.3 Resolution Timeline

The University will make a good faith effort to complete the resolution process within a 60-90 business day period, excluding appeal. Each of these deadlines may be extended

for good cause. Good cause may include considerations such as University closings, the absence of a party or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The University will notify the parties when a delay is anticipated and the rationale for any extensions or delays as appropriate, as well as an estimate of how much additional time will be needed to complete the process. While the University works with all parties involved in scheduling meetings throughout the process, repeated delays in the process, including requests to reschedule meetings or hearings, and scheduling conflicts with advisors and/or support persons may not be accommodated.

8.8.17.4 Filing a formal complaint

The grievance process begins with a formal complaint, which is a document filed and/or signed by the complainant or signed by the appropriate Title IX Coordinator alleging a violation of the Prohibited Conduct section in this policy by a respondent and requesting that the University investigate the allegation(s). A complaint may be filed with the appropriate Title IX Coordinator in person, by mail, or by electronic mail, or by using the contact information in the section above. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint. The formal complaint must include sufficient details known at the time including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date, time and location of the alleged incident, if known. If notice is submitted in a form that does not meet this standard, the appropriate Title IX Coordinator will contact the complainant to ensure that it is filed correctly.

The University may consolidate formal complaints as to the allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party where the allegations of sexual harassment arise out of the same facts or circumstances.

8.8.17.5 Initial assessment

Once a formal complaint is filed, the appropriate Title IX Coordinator will initiate a prompt review of the formal complaint to determine the next steps in the grievance process. The assessment typically takes one to five business days.

The steps in an initial assessment can include:

- If a formal complaint is received, the appropriate Title IX Coordinator assesses its sufficiency and works with the complainant to make sure it is correctly completed.
- The appropriate Title IX Coordinator or Title IX Intake Officer reaches out to the complainant to offer supportive measures if this has not already occurred.
- The appropriate Title IX Coordinator works with the complainant to ensure they are aware of the right to have advisors of their choice.
- The appropriate Title IX Coordinator works with the complainant to determine whether the complainant would like to proceed through a formal grievance process or an informal resolution process.
    - If a formal grievance process is preferred, the appropriate Title IX Coordinator determines if the misconduct alleged falls under Title IX, as outlined below in

Dismissal of a formal complaint (Mandatory and Discretionary).

- If it does, the appropriate Title IX Coordinator will initiate the formal investigation and grievance process under the Title IX Grievance Procedures (Student Respondent Title IX Grievance Procedures for students or under the Employee Respondent Title IX Hearing Process for employees).
- If it does not, the University will dismiss the formal complaint, assess which policies may apply and refer the matter for resolution under another disciplinary process. Note that dismissing a complaint under Title IX is a regulatory, procedural requirement and does not limit the University's authority to address a complaint with an appropriate process and remedies. Complaints regarding students alleged to have violated the Sexual and Gender-Based Misconduct policy not within the jurisdiction of Title IX will be investigated and adjudicated under the University's General Sexual Misconduct Procedures (Student Respondent General Sexual Misconduct Process; Employees alleged to have violated the Sexual and Gender-Based Misconduct policy not within the jurisdiction of Title IX will be investigated and addressed under the Harassment and Discrimination Policy and Procedures).
- If an informal resolution option is preferred, the appropriate Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the respondent is also willing to engage in informal resolution.

Upon dismissal of a formal complaint under the Title IX grievance process, the University retains discretion to utilize the Student Code of Conduct for students and the Harassment and Discrimination Policy and Procedures for employees to determine if a violation has occurred. If so, a new formal complaint alleging conduct charges from these policies and procedures will be issued following the Notice of Allegations and Investigations below.

8.8.17.6 Advisors

Except as noted below, the complainant and respondent may each have no more than two people, defined as advisors, present throughout the entire process. The advisor may be a personal supporter of the party's choice, a licensed attorney, an advocate, or an advocate supervised by an attorney. The advisor of choice can also include parents or others who are not full-time members of the University community. Advisors are not permitted for witnesses during hearings, meetings, or proceedings.

The advisors may attend hearings, meetings, and interviews with the complainant or respondent, consult privately with the complainant or respondent during hearings, meetings, and interviews, except when such consultations during questioning of the party they are advising at a proceeding are deemed disruptive by the hearing chair, decision-maker, or investigator, and assist the party they are advising with the exercise of any right during the proceedings. The advisor is not allowed to address the investigators, hearing panel, or decision-makers except to engage in cross-examination during the live hearing. There is no direct cross-examination by parties, or their advisors permitted in Student Respondent General Sexual Misconduct Process or in the Harassment and Discrimination Policy and Procedures Section 8.7 for cases that fall outside the Title IX Grievance Procedures (although, in all cases, parties will be given the opportunity to submit relevant questions to be asked of the other party and any witnesses, as described more specifically in the applicable procedures). Disruptive advisors will be removed from the process, and

the process will continue as outlined. In matters involving employee respondents which fall outside the Title IX Grievance Procedures and are investigated pursuant to Harassment and Discrimination Policy and Procedures Section 8.7, both the complainant and the respondent shall have the same opportunities to be accompanied to any meeting or disciplinary proceeding by advisor(s) of their choice only in cases of alleged sexual assault, dating violence, domestic violence, stalking, and in cases of sexual harassment involving a student.

Advisors can request an outline of their role and expectations for their participation in the grievance process. Students who are complainants or respondents may access attorneys paid for by the Maryland Higher Education Commission (MHEC) or who agree to participate on a pro bono (without charge) basis. Information for students regarding accessing counsel through MHEC can be found on the MHEC website, https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx. Counsel for students may not be available through MHEC for complaints involving allegations of sexual and/or gender-based harassment only. Students or employees may knowingly and voluntarily choose not to have counsel.

8.8.17.7 Notice of Allegations and Investigation

Once a formal complaint has been filed, the appropriate Title IX Coordinator (or designee) shall provide the complainant and respondent with timely written notice of the allegations, including identities of the parties involved in the incident, if known, the date, time and location of the alleged violation, if known, the conduct allegedly constituting the violation, the range of potential sanctions associated with the alleged violation, and the rights and responsibilities under this policy and regarding other civil and criminal options. The written notice will also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the University and not on the parties. The written notice will inform the parties that they may have advisors of their choice, who may be, but are not required to be, an attorney, and may inspect and review evidence during the grievance process (as applicable). The written notice will inform the parties that if they knowingly make false statements or knowingly submit false information during the grievance process, this action constitutes a violation of section 8. *False Information/Obstruction* under the Student Code of Conduct for students and section 8.6 *Knowingly Filing False Complaint* of the Harassment and Discrimination Policy and Procedures for employees which will result in a referral for disciplinary action that is separate and independent from the grievance process.

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment but other violations of University policy, the process outlined in this section will be applied in the investigation and adjudication of all of the allegations.

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

Actions by the police or criminal courts do not in any way preclude the University from pursuing charges through the University's grievance process. Similarly, pursuit of charges through the University's grievance process does not preclude the pursuit of

criminal charges. In cases where law enforcement directs the University to suspend its investigative efforts, the University will cooperate with all investigative efforts and will promptly resume its own investigation or adjudication of the case when permitted to do so.

8.8.17.8 Informal Resolution

Once a formal complaint has been filed, the matter may be resolved through an informal resolution which is a process whereby the parties agree to resolve the matter through an alternative resolution mechanism, such as restorative practices or mediation, facilitated by trained staff, as described below, often before a formal investigation takes place. However, informal resolution will not be used for student complaints against employees under this policy. Reports of sexual assault may not be resolved through mediation or informal resolution. It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process.

Neither party is required to accept responsibility for the alleged conduct in order to proceed with an informal resolution (but certain restorative justice resolution options may require an acceptance of responsibility to be available). All parties to the complaint must agree to use of informal resolution, and either party may decide not to proceed with or to end informal resolution in favor of formal resolution at any time. The appropriate Title IX Coordinator (or designee) has the discretion to determine whether a complaint is appropriate for an informal resolution and retains discretion to terminate an ongoing informal resolution process at any time. The parties may agree, as a condition of engaging in Informal Resolution, that information disclosed during the informal resolution process may not be used as evidence during a *Student Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures* for the same complaint or another formal complaint involving the same parties and arising from the same allegations unless all parties consent.

The purpose of an informal resolution is to take appropriate action to address and remedy the alleged behavior, its effects, and/or the complainant's concerns short of the formal resolution process, such as by imposing individual and community interventions and remedies designed to maximize the complainant's access to educational, extra-curricular, and/or employment activities at the University; and/or to address the effects of the respondent's alleged conduct on the larger University community. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision, and/or security at locations or activities where the alleged conduct occurred or is likely to recur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Academic modifications;
- Employment modifications;
- Completion of projects, programs, trainings, or other requirements designed to help the respondent manage behavior, refrain from engaging in prohibited conduct, and understand why the prohibited conduct is prohibited;
- Compliance with orders of no contact that limit access to specific college buildings or areas or forms of contact with particular persons; and/or
- Restorative practices, including facilitated conversations and acknowledgement of harm.

Prior to implementing Informal Resolution, the Recipient 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 Recipient.

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.

The imposition of remedies or interventions obtained through an informal resolution may be achieved by an agreement acceptable to the parties and University. The appropriate Title IX Coordinator (or designee) will facilitate the development of this agreement. The timeframe for informal resolutions is generally 30 business days to address and resolve the matter. Any reasonable delays or extensions must be supported by good cause and will be communicated to the parties. In such cases where an agreement is reached, and the terms of the agreement are implemented, the matter will be considered resolved and closed. Agreements reached through informal resolution are considered final, and cannot be referred for formal resolution, except if the respondent fails to satisfy the terms of the agreement. In such cases, or where an agreement is not reached and the complainant wishes to proceed with formal resolution or the appropriate Title IX Coordinator (or designee) determines that further action is necessary, the matter may be referred for a formal resolution. Where the complainant, respondent, and the University have reached an informal resolution agreement, the parties will be provided with a written copy of the agreement. Accepting an informal resolution does not mean that the respondent admits responsibility for a policy violation; nor does it mean that there has been a finding of a policy violation. The appropriate Title IX Coordinator (or designee) will maintain all records of matters referred for informal resolution.

8.8.17.9 Dismissal of a formal complaint (Mandatory and Discretionary)

These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45. Such a dismissal does not preclude action under another provision of the University's code of conduct or other policies, including the University's Sexual and Gender-Based Misconduct Policy (provided the complaint will not be considered "under Title IX" and the General Sexual Misconduct Procedures will be applied). The University must dismiss a formal complaint under Title IX or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Prohibited Conduct under the Title IX Grievance Process section of this policy; and/or
2) The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the respondent; and/or
3) The conduct did not occur against a person in the United States; and/or
4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University.

The University <u>may</u> dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1) a complainant notifies the appropriate Title IX Coordinator in writing that they would like to withdraw the formal complaint; or
2) when the respondent is no longer enrolled or employed by the University; or
3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

In the case a student requests a leave or withdrawal from the University after a formal complaint has been filed under 8.8. Sexual and Gender-Based Misconduct Policy, the University may not prohibit a student from taking a leave or withdrawing as it could be considered retaliation under the 2020 Title IX regulations. However, should a student request a leave or withdraw after a formal complaint has been filed under 8.8. Sexual and Gender-Based Misconduct Policy, the University reserves the right to complete the Title IX Grievance Procedure or General Sexual Misconduct Process or require that the process be completed prior to the student being permitted to re-enroll.

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

The dismissal determination of a formal complaint or any included allegations may be appealed to the Vice President for Student Development or designee, in the case of students; or to the Title IX Coordinator or designee, in the case of employees. The appeal must be submitted within five University business days of receipt of the dismissal letter, indicating the grounds for appeal. If a party does not appeal the decision within this period, they have waived a right to appeal. A complainant or respondent may appeal on one of the following grounds:

- The party alleges that there were procedural irregularities that affected the outcome of the dismissal;
- The party alleges new evidence that was not reasonably available when the determination of dismissal of the complaint was made that could affect the outcome of the dismissal;
- The party alleges the Title IX Coordinator or Deputies, investigators, or hearing panel had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the dismissal.
- The party alleges the Title IX Coordinator or designee who dismissed the complaint did not appropriately apply the criteria of this section when deciding the dismissal.

When an appeal letter is accepted, the other party will be given notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five University business days.

An independent decision maker, who may be a university administrator, a hearing panel member, or an external party, will be appointed to decide the appeal.

A complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

8.8.17.10 Employee Respondent Title IX Grievance Procedures

The following sections outline the investigation and hearing procedures for complaints

involving an employee respondent subject to a formal complaint falling under Title IX. Complaints that fall outside of Title IX jurisdiction will be adjudicated under the procedures in section 8.7 of the Harassment and Discrimination Policy and Procedures.

8.8.17.10.1 Investigations

Following notice to the parties, the appropriate Title IX Coordinator (or their designee) will designate an impartial investigator(s) and coordinate the logistics of the investigation process. All investigations will be conducted with fairness, equity, impartiality, and under a reasonably prompt timeframe, generally within 60 business days. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. No unauthorized audio or video recording of any kind is permitted during investigation meetings. The appropriate Title IX Coordinator (or designee) will provide regular status updates to the parties throughout the investigation. The complainant and respondent will be notified of the date, time and location of each hearing, meeting, or interview that they are permitted to attend and shall have the right to be accompanied by no more than two people, including a personal supporter of the party's choice, an attorney, or an advocate.

The complainant and respondent shall have the right to submit to the investigator evidence, witness lists, and suggested questions for the parties and witnesses. If additional allegations are uncovered during the investigation, they may be added to the formal complaint with notice to the parties whose identities are known. The investigation does not consider evidence about the complainant's sexual predisposition or prior sexual behavior as 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 by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent or to prove the source of an injury, or to prove prior sexual misconduct. Additionally, the investigation does not consider incidents not directly related to the possible violation, unless they evidence a pattern. Evidence regarding a party's medical history, including mental health counseling, treatment, or diagnosis, may not be considered without that party's written consent.

All parties must submit any evidence they would like the investigator(s) to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Prior to the conclusion of the investigation, the investigator shall prepare a draft written report summarizing and analyzing the evidence, including both evidence indicating the alleged behavior occurred or did not occur. Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator(s) to not be directly related to the allegations in the formal complaint will be included in the appendices to the investigation report.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance procedures. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020). The parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020). The complainant and respondent and their advisors will receive the draft investigation report and may submit a written response to the appropriate Title IX Coordinator (or designee) within 10 days. The parties

may elect to waive the full 10 days. If a written response has been submitted, the investigator(s) will evaluate the information from the parties and may need to conduct further interviews to gather relevant evidence in the case. The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The investigator(s) should document all rationales for any changes made after the review and comment period.

The appropriate Title IX Coordinator (or designee) will provide the final investigation report to the parties, their advisors, and the decision maker including all evidence, relevant and/or directly related to the complaint submitted by the parties and witnesses. After the Title IX Coordinator (or designee) provides the report to the parties and their advisors, the parties may submit a written response to the Title IX Coordinator within 10 University days. A hearing will be scheduled a before an independent decision-maker(s) for employees, at least 10 University days following the investigative report being sent by the appropriate Title IX Coordinator (or designee).

8.8.17.10.2 Hearing Procedures

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties and their advisors, the appropriate Title IX Coordinator (or designee) will schedule a hearing before an independent decision-maker(s). NOTE: Student Respondent Title IX Investigation and Hearing Process is outlined in the community standards under D.ii.6.

All participants are expected to maintain confidentiality regarding the proceedings, except that the complainant and the respondent may not be required to maintain confidentiality as to the outcome of the proceedings, and any directives regarding confidentiality shall not impede the parties' ability to obtain and present evidence or otherwise support or defend their interests, to communicate with law enforcement, to communicate with legal counsel or another advisor under this Policy, or to seek counseling or support. Questions regarding confidentiality in a particular case should be directed to the Chief People and Culture Officer and Associate Vice President for Human Resources' office.

Employee harassment (including sexual misconduct) and discrimination that falls outside of the Title IX Grievance Procedures will be investigated and adjudicated under section 8.7 of the Harassment and Discrimination Policy and Procedures for employees (which represent the University's General Sexual Misconduct Procedures for employees).

As described in the Community Standards, sexual and gender-based misconduct cases where a student is the respondent that falls under Title IX will be investigated and adjudicated under Student Respondent Title IX Grievance Procedures and cases where a student is the respondent that fall outside of the Title IX will be investigated and adjudicated via Student Respondent General Sexual Misconduct Process.

8.8.17.10.3 Employee Respondent Title IX Hearing Procedures

All hearings, also known as proceedings, described in this section apply to the adjudication of formal complaints alleging prohibited conduct under this Policy that meets the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX. The hearing will be conducted in accordance with the procedures outlined in

this section with special sensitivity to the nature of the charges and the best interests of all parties involved.

8.8.17.10.3.1 Pre-hearing Conference

A pre-hearing conference will be scheduled with each party and their advisors. At least two business days prior to the pre-hearing conference, parties should submit the questions or topics they wish to ask or discuss at the hearing, so that a decision-maker can rule on the relevance of the question or topic to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude additional questions- both new and follow-up questions- to be asked at the hearing and does not limit a party's opportunity for cross examination at the hearing as described below. The decision-maker will document and share their rationale for any exclusion at this pre-hearing conference.

At each pre-hearing meeting with a party and their advisors, the decision-maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the investigator(s) may be argued to be relevant. The decision-maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing.

8.8.17.10.3.2 Hearing Procedures

All hearings will be conducted in a live hearing format which means all parties and the decision-maker(s) may be physically present in the same geographic location, or at the request of either party, or the University, the parties may be located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. All hearings are closed to the public. The University shall create an audio recording of the hearing, but all other recordings are prohibited. In recognition of the unique nature of sexual misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

At the hearing, the decision-maker(s) have the authority to hear and make determinations on all allegations of the Title IX Grievance Procedures and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual and gender-based misconduct, even though those collateral allegations may not specifically fall within the policy. The decision-maker will answer all questions of procedure and will be responsible for maintaining an orderly, fair, impartial, and respectful hearing. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Both the respondent and complainant have a right to similar and timely access to information that will be used at the hearing. The hearing materials, or instructions for how to view certain materials, will have been included in the final investigation report sent to the parties by the appropriate Title IX Coordinator (or their designee).

8.8.17.10.3.2.1 Evidentiary Considerations at the Hearing

Any evidence that the decision-maker(s) determines is relevant may be considered. The parties are encouraged to make known all witnesses and evidence during the investigation stage. Any witness scheduled to participate in the hearing must have been first

interviewed by the investigator(s), have proffered a written statement, or answered written questions, unless all parties and the decision-maker(s) assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and decision-maker(s) do not assent to the admission of evidence newly offered at the hearing and the decision-maker determines the evidence to be potentially relevant to the outcome of the proceeding, the decision-maker may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The complainant and respondent each have the right to bring fact witnesses, who must first have been interviewed by the investigator(s), have proffered a written statement, or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing, to the hearing to testify on their behalf. All witnesses interviewed as part of the investigation will be notified of the date, time, and location of their portion of the hearing typically 5 days prior to the hearing.

Questions and evidence about the 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 by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent or to prove the source of an injury, or to prove prior sexual misconduct. Additionally, the hearing does not consider incidents not directly related to the possible violation, unless they evidence a pattern. The decision-maker will determine if the evidence presented is germane to the case and will be allowed. The decision-maker(s) will not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding a privilege has waived the privilege. This includes evidence regarding a party's medical history, including mental health counseling, treatment or diagnosis. While character witnesses are not prohibited under the Title IX Grievance Procedure, the hearing panel will objectively evaluate whether that evidence is relevant and, if so, what level of weight or credibility the evidence should receive.

8.8.17.10.3.2.2 Advisor role at hearing

The complainant and respondent may each have no more than two people, defined as advisors, present throughout the entire process. The advisor may consult privately with the complainant or respondent during the hearings, except when such consultations during questioning of the party they are advising at a hearing are deemed disruptive by the decision-maker(s), and assist the party that they are advising with the exercise of any right during the proceedings. The advisors are not allowed to address the decision-maker(s) during the hearing except for the purpose of cross-examination. Disruptive advisors will be removed from the process, and the process will continue. The parties should notify the appropriate Title IX Coordinator (or designee) as soon as they have identified their advisors, but in any event, at least one University business day in advance of the hearing date if a party plans to bring advisors. Advisors can request an outline of their role and expectations, including the Decorum Policy for Title IX Grievance Procedures Involving and Employee Respondent, for their participation in the grievance process.

Only one of the advisors is permitted to ask relevant questions to the other party and any

witnesses during the live hearing. The advisor responsible for all cross-examination must be designated by the party to the decision-maker prior to beginning cross-examination.

8.8.17.10.3.2.3 Order of the hearing

The order described in this section is the order typically followed at a hearing but may be adjusted for good cause. The hearing will begin with the decision-maker(s) reviewing the rights and responsibilities for the parties, and then reading the charges against the respondent and asking if they believe they are responsible or not responsible for the charges.

The investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the decision-maker(s)and the parties (through their advisors). Neither the parties nor the decision-maker(s) should ask the investigator(s) their opinions on credibility, recommended findings, or determinations, and the investigators, advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the decision-maker will direct that it be disregarded.

The respondent will have the opportunity to present a brief statement and respond to questions from the decision-maker(s). The complainant will then have an opportunity to present a brief statement and respond to questions from the decision-maker(s). Either party may choose to present their testimony outside of the presence of the other party, but the non-testifying party will be able to see and hear the testimony remotely. The parties have the right to see and listen to all testimony given during the hearing if they so choose. The decision-maker(s) will then call witnesses and may recall the parties and any witness for clarification.

8.8.17.10.3.2.4 Cross examination

Cross-examination of the parties and witnesses by an advisor of choice will be permitted during the live hearing and will occur after the decision-maker(s) question the party or witness. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who is not required to be an attorney, to conduct cross-examination on behalf of that party. If a party or witness is not participating in the hearing, cross-examination questions will not be asked of that party or witness. All questions are subject to a relevance determination by the decision-maker(s). The advisor will propose the question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the decision-maker(s) upon request or agreed to by the parties) and the proceeding will pause to allow the decision-maker(s) to consider it, and the decision-maker(s) will determine whether the question will be permitted, disallowed, or rephrased. The decision-maker(s) will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The decision-maker may explore arguments regarding relevance with the advisors if they so choose. The decision-maker will then state their decision and the rationale to exclude a question as not relevant, or to reframe it for relevance for the record and advise the party/witness to whom the question was directed, accordingly.

The panel may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations that fall outside of the Prohibited Code provisions under the Title IX Grievance Process are considered at the same hearing, the decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement made without respect to a person's attendance at the hearing or participation in cross examination, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different advisor. If an advisor refuses to comply with the rules of decorum, the University may provide that party with an advisor of the University's choice, who is not required to be an attorney, to conduct cross-examination on behalf of that party.

8.8.17.10.3.3 Additional Statements

The complainant and the respondent have the right to provide a written impact or mitigation statement, due prior to the start of the hearing to the appropriate Title IX coordinator (or designee) that describes how the incident has affected them or why there are mitigating factors. The statement(s) is reviewed by the decision-maker(s) only if a determination of responsibility is made and before a sanction is determined. If an impact or mitigation statement was submitted and reviewed by the decision-maker(s), a copy will be provided to both parties with the decision letter.

8.8.17.10.3.4 Deliberation, Decision-making, and Standard of Proof

The decision-maker(s) will deliberate in closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The decision-maker(s) will make findings of fact and determinations using a preponderance of evidence standard. The decision-maker(s) bears the burden for ensuring the preponderance of the evidence and the burden of gathering evidence is sufficient to determine that the respondent is responsible for a violation of this policy. If the respondent is found responsible, the decision-maker(s) will consider the additional statements and the respondent's previous conduct history in determining the appropriate sanction. Drug or alcohol use by the respondent is not a defense to a charge of sexual misconduct and will not be considered a mitigating factor in assessing an appropriate sanction.

8.8.17.10.3.5 Remedies

Remedies, including sanctions, are designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include Supportive Measures. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of remedies.

8.8.17.10.3.6 Sanctions

Violations of the Title IX grievance policy are serious, and the most serious offenses are likely to result in termination, where warranted. The determination of sanctions and remedies will be made in consultation with the Chief People and Culture Officer and Associate Vice President for Human Resources or designee. Disciplinary action may consist of the following:

- mandatory assessment and compliance with treatment recommendations;
- prohibition of the respondent from participating in grading, honors, recommendations, reappointment and promotion decisions, or other evaluations of the complainant;
- written warning, and a copy of the complaint and its disposition placed in the respondent's personnel file;
- restrictions on the respondent's access to University resources, such as merit pay, or other salary increases for a specific period;
- continuation/modification of supportive measures;
- disciplinary probation;
- suspension;
- dismissal from the University.

8.8.17.10.3.7 Notice of Outcome

The complainant and respondent will be informed concurrently in writing of the outcome of the hearing, also known as the result, normally within ten (10) University business days after the conclusion of the hearing. Both parties will receive written notice of any sanctions imposed on the respondent for violation of this policy (information about unrelated policy violations will not be shared), except that in cases of non-violent sexual harassment the complainant will only receive notice of any sanctions that relate directly to the complainant. The written determination shall include the following:

- identification of the allegations allegedly constituting sexual harassment; a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the University's Prohibited Conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and procedures and permissible bases for the complainant and respondent to appeal.

8.8.17.10.4 Appeals

Each party may appeal (1) the dismissal determination of a formal complaint or any included allegations and/or (2) a determination regarding responsibility and/or the sanction under the Title IX Grievance Procedures. Appeals based on the dismissal determination of a formal complaint, or any included allegations will follow the process outlined in section Dismissal of a Formal Complaint (Mandatory and Discretionary). In cases where the respondent is found not responsible for violation of sexual and gender-based misconduct policies after a hearing conducted through the Title IX Grievance Procedure or General Sexual Misconduct Process, the appeal process described in this section will still apply.

In cases where appeals are submitted by both parties, both appeals will be considered

together by the same appellate decision-maker. Unless indicated otherwise in the original decision letter, the typewritten appeal should be submitted via email or in person to the University's Title IX Coordinator for employee cases. The appeal must be submitted within five University days of receipt of the decision letter, indicating the grounds for appeal. If a party does not appeal the decision within this period, they have waived a right to appeal. An appeal must be based up on one or more of the following grounds:

- The party alleges that there were procedural irregularities that affected the outcome of the matter;
- The party alleges that new evidence that was not reasonably available at the time of the determination of responsibility or dismissal of the complaint was made that could affect the outcome of the matter;
- The party alleges a Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainant or respondent generally, or the individual complainant or respondent that affected the outcome of the matter.
- The party alleges that the sanctions imposed are grossly disproportionate to the findings of responsibility.

The submission of the appeal means that the sanctions are left pending until the appellate decision-maker renders a decision. Supportive measures remain available during the appeal process.

The burden is on the party appealing to provide support in the appeal letter for the asserted grounds. The University's Title IX Coordinator (or designee) shall determine whether the party has provided sufficient support for each asserted ground. Failure to follow the guidelines or to provide sufficient support for the asserted grounds will result in determining that only certain asserted grounds should be submitted for review by appellate decision-maker or that the appeal should be dismissed without further proceedings.

When an appeal letter is accepted, the other party will be given notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five University days.

Appeals will be decided by an independent appellate decision-maker who is free from conflict of interest and bias, and did not serve as investigator(s), Title IX Coordinator, or decision-makers in the original hearing.

For appeals based on the party alleging that the sanctions imposed are grossly disproportionate to the findings of responsibility, the appellate decision-maker may only affirm, reduce, or increase the sanctions assigned by the original decision-maker(s). For appeals based on other grounds, the appellate decision-maker that hears the appeal can take the following actions: affirm the original decision; affirm the original decision of responsibility for some or all of the charges and change the sanction (sanction may be reduced or increased); reverse the original decision of responsibility for some or all of the charges; or remand the matter to the original decision-maker(s) for further consideration. Upon remand, if the original decision-maker(s) affirms its prior decisions regarding responsibility and sanctions, the appellate decision- maker shall continue its review and render a decision on the original appeal(s). If the original decision-maker(s) reverses or modifies its original decisions regarding responsibility and/or sanctions, each party shall have a right to submit an appeal to the University's Title IX Coordinator for employee

cases.

Except in cases involving the discovery of new evidence, the appellate decision-maker may consider, as appropriate given the grounds for appeal, the hearing record, the appeal letter and response, and the decision and rationale of the appellate decision-maker. In cases where the appeal is based in whole or in part on a claim of newly discovered evidence, the appellate decision-maker will first determine if the offered evidence was not known nor reasonably available at the time of the hearing and if it might impact the decision of responsibility or determination of sanction. If the appellate decision-maker determines that the evidence was not known nor reasonably available at the time of the hearing and that it might impact the decision of responsibility or determination of sanction, the appellate decision-maker will remand the case to the original decision-maker(s) for review. Upon review, the original decision-maker(s) will issue a new decision letter taking into account the newly discovered evidence. All decisions made by the appellate decision-maker will be made based on the considerations as described above without a hearing. In cases where the appeal is based in whole or in part on a claim of conflict of interest or bias, the appellate body may require a new hearing with a different panel.

The appellate decision-maker's decision will be communicated concurrently in writing to both the respondent and the complainant, normally within five University business days of the appeal meeting and will include rationale for the decision. The appellate decision-maker's decision is final, and no further appeal is permitted by either party.

Employee harassment (including sexual misconduct) and discrimination that falls outside of the Title IX Grievance Procedures will be investigated and adjudicated under section 8.7 of the Harassment and Discrimination Policy and Procedures for employees (which represent the University's General Sexual Misconduct Procedures for employees).

As described in the Community Standards, sexual and gender-based misconduct cases where a student is the respondent that fall under Title IX will be investigated and adjudicated under Student Respondent Title IX Grievance Procedures and cases where a student is the respondent that fall outside of the Title IX will be investigated and adjudicated via Student Respondent General Sexual Misconduct Process.

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