Loyola University Maryland
— 1852 —

Loyola University Maryland Sex-based Harassment and Discrimination Policy

The following is section 8.8 of the Loyola University Maryland's *Harassment and Discrimination Policy*, which includes how Loyola University Maryland (the University) prevents sex-based harassment and discrimination, the process for reporting sex-based harassment, discrimination or retaliation, and the procedures for adjudicating allegations of that nature for all members of the University community. The University will interpret and apply this policy based on any judicial orders or outcomes and in accord with any updated guidance regarding the implementation of Title IX regulations from the Office of Civil Rights or any updated guidance or laws from the state of the Maryland regarding sex-based harassment and discrimination policies.

Scope of Sex-based Harassment and Discrimination Policy

The Sex-based Harassment and Discrimination Policy ("Policy") prohibits harassment and discrimination on the basis of sex, in accordance with Title IX, Maryland state law, and the University's values and standards of conduct. This Policy prohibits sex-based harassment and discrimination, domestic violence, dating violence, stalking, and sexual assault of students, employees, or program participants of the University 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 the University. This Policy also applies to prohibited conduct defined in this Policy, which includes conduct prohibited by Title IX and conduct that, although not falling under Title IX, violates the University's own conduct policies.

Additionally, this Policy is only applicable to alleged incidents that occur on or after August 1, 2024[1]. The University will address incidents based on the date when they occurred in the following manner:

- Incidents that occurred before August 16, 2020, will be addressed using the policies in place at the time of the alleged incident and the procedure outlined in this Policy.
- Incidents that occurred between August 17, 2020, and July 31, 2024, will be addressed using the policies and procedures in place at the time of the incident. Those policies and procedures can be found on the Title IX and Bias Compliance website.
- Incidents occurring on or after August 1, 2024, will be addressed consistent with this policy[1].

This Policy distinguishes between reporting sex-based harassment and discrimination incidents and filing Complaints. Reporting sex-based harassment and discrimination 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/or resolution procedures described in this Policy. All persons who report incidents of sex-based harassment and discrimination ("Complainant") will be offered individualized Supportive Measures. The Policy below describes the resolution options including formal and informal resolution and how to pursue either.

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[1] As stated in the Revision of this Policy section, if government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings. The Title IX Coordinator or designee will be responsible for determining what adjustments need to be made to the policy or the process applied to comply with the most recent government laws, regulations, or court holdings.

Jurisdiction

This Policy applies to the University's education programs and activities (defined as including locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the University has disciplinary authority, and to misconduct occurring within any building owned or controlled by a University- recognized student organization. The following persons have a right to make a complaint of sex discrimination and sex-based harassment: a Complainant, a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, and the Title IX Coordinator; additionally, the University will accept complaints of sex discrimination other than sex-based harassment from any student or employee or other person who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination. A Complainant does not have to be a member of the University community to file a Complaint, at the discretion of the Title IX Coordinator.

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

For disciplinary action to be issued under this Policy, the Respondent must be a University student or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The University can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers, but the Title IX Coordinator may take measures to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies. Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination or sex-based harassment in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

Online Harassment and Misconduct

The policies of the University are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University's education program and activities or use the University 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, including but not limited to the offering and implementation of supportive measures and/or a resolution process, 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.

Related policies

When allegations are made against an individual who is both a student and an employee, the University must make a fact-specific inquiry for the purposes of determining the proper procedure to apply. In making this determination, the University must consider whether the party's primary relationship with the University is to receive an education and whether the allegations occurred while the party was performing employment-related work.

Harassment on the basis of a protected classification (i.e. race, national origin, religion, etc.) is also prohibited by University policy and may be the subject of a complaint using the following policies:

- Procedures for Resolution of Complaints Against Employees under the Harassment and Discrimination Policy (Employee Respondent(s); see Section 8.7)
- Bias Process of the Community Standards (Student Respondent(s); see Section 7)

Non-Discrimination Statement

Loyola University Maryland does not discriminate and prohibits discrimination on the basis of race (including traits associated with race such as hair texture, afro hairstyles, and protective hairstyles), color, or national origin (including shared ancestry or ethnic characteristics), sex, 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. The designated compliance officer to ensure compliance with Title IX of the Education Amendments of 1972, as amended (Title IX), the Americans with Disabilities Act of 1990 , as amended (ADA), and Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), is David Tiscione, Director of Title IX and Bias Compliance (105 Jenkins Hall, 410-617-5171, dmtiscione@loyola.edu). Inquiries about the application of Title IX, ADA, or Section 504 may be made to David Tiscione, the Office for Civil Rights (OCR), or both. Inquiries about discrimination related to any other protected class aside from sex or disability may be made to Rodney Parker, Chief Equity and Inclusion Officer (Humanities 224, 410-617-2201, rparker1@loyola.edu), OCR, or both.

The Loyola University Maryland nondiscrimination policy and grievance procedures and information regarding how to report information or make a complaint about conduct that may constitute discrimination can be found in the following places:

- Sex discrimination- Loyola University Maryland Title IX and Bias Compliance Website
- Discrimination on protected classifications (non-sex-based)- Loyola University Maryland Title IX and Bias Compliance Website for Students and Human Resources Website for employees

Loyola University is authorized under Federal Law to enroll non-immigrant, alien students.

Definitions

Advisor- A person chosen by a party or appointed by the institution to accompany the party to all meetings related to the Sex-based Harassment and Discrimination Policy and advise the party on that process.

Appeal decision-maker- The person or panel authorized to accept or reject a submitted appeal request, determine whether any of the grounds for appeal are met, and direct responsive action(s), accordingly. For student cases, members of the Resolution Pool typically comprise a panel to serve as the Appeal Decision-maker. For employee cases, typically a trained individual from Human Resources who serves in the Resolution Pool will be appointed by the University's Title IX Coordinator or designee.

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

Complainant- An individual who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the policy.

Complaint- An oral or written request to the University that can objectively be understood as a request for the University to investigate and make a determination about the alleged Policy violation(s).

Confidential Employee- An employee who is not a Mandated Reporter of notice of sex-based harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status) because of one of the following:

- The employee's communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
- The University designated the employee as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services; or
- The employee is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee's confidential status only applies with respect to information received while conducting the study.

Consent- Affirmative indication by words and/or actions of a clear and 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- A calendar day regardless of whether the University is in normal operation unless otherwise specified.

Decision-maker- Refers to the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.

Education program or activity- Locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the University has disciplinary authority, and to misconduct occurring within any building owned or controlled by a University- recognized student organization.

Employee- Faculty, staff, and administrators, including student employees and those holding these positions temporarily. Employee does not include those performing services for or as an independent contractor, although such non-employed individuals authorized to provide aid, benefits, or services on the University's behalf may be subject to certain rights and obligations under this Policy.

Informal Resolution- A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination in the Resolution Process.

Investigation Report- The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.

Investigator- The person(s) authorized by the University 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.

Knowledge- When the University receives notice of conduct that reasonably may constitute sex-based harassment, discrimination, and/or retaliation.

Mandated Reporter- An employee of the University who is obligated by policy to share knowledge, notice, and/or reports of discrimination, sex-based harassment, and/or retaliation with the appropriate Title IX Coordinator or deputy.[2]

Notice- When an employee, student, or third-party informs the Title IX Coordinator or Title IX Deputy Coordinators of the alleged occurrence of sex-based harassing, discriminatory, and/or retaliatory conduct.

Parties- The Complainant(s) and Respondent(s), collectively.

Pregnancy or related conditions- Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

Relevant Evidence- Evidence that may aid a decision-maker in determining whether the alleged discrimination, sex-based harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.

Remedies- Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the University's educational program and activity.

***Resolution* Process-** The investigation and/or resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and/or Formal Resolution.

Respondent- An individual who is alleged to have engaged in conduct that could constitute prohibited conduct under this policy.

Sanction- A consequence imposed by the University on a Respondent who is found to have violated this policy.

Sex-Based Harassment and Discrimination Team- The Title IX coordinator, any deputy coordinators, and any member of the resolution process pool.

Sex- A multifaceted term including but not limited to: sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Student- Any person who has gained admission to Loyola University Maryland.

Title IX Coordinator- At least one official designated by the University to ensure ultimate oversight of 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 or other designees for specific roles and tasks.

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

Witness (Expert)- An individual who provides opinion evidence during a proceeding based on their specialized knowledge, training, or experience.

Witness (Fact)- An individual who provides inculpatory or exculpatory evidence based on their personal knowledge of the allegations on which the proceedings are based.

Disability Accommodations

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

Anyone needing such accommodations or support may request reasonable accommodations for disclosed disabilities to the appropriate Title IX Coordinator at any point before or during the Sex-Based Harassment and Discrimination process that do not fundamentally alter the Process. The Title IX Coordinator will work with Disability and Accessibility Services (for students) and Human Resources (for employees) as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation. The appropriate

[2] Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the participants, even where the participants may be receiving accommodations in other institutional programs and activities.

Students with concerns about accommodations decisions may raise those concerns utilizing the Loyola University Maryland Procedures for Appealing Accommodation Determinations and Implementation. Individuals who believe they were discriminated against based on their disability may file a complaint through the Loyola University Maryland Harassment and Discrimination Policy and Procedures.

Education and Prevention of Sex-based Harassment and Discrimination

Members of the University community are expected to respect the rights, dignity, and personhood of others. Educational programs to promote the awareness of sex-based harassment and discrimination including rape, domestic violence, dating violence, sexual assault, and stalking are offered at New Student Orientation, in new employee orientation, in annual employee training, 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 sex-based harassment, definitions of various types of sex-based harassment 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.

While the University works to prevent sex-based harassment and discrimination, there are resources available for community members who experience those behaviors. The Sexual Violence Prevention, Education, and Response Coordinator is available to meet with students who experience sex-based harassment and discrimination. Additionally, 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 sex-based harassment and discrimination. Further, the Employee Assistance Program is a 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 sex-based harassment and discrimination.

Title IX Independence and Conflict of Interest

The Title IX Coordinator oversees the implementation of the Sex-Based Harassment and Discrimination policy and process and acts with independence and authority, free from bias and conflicts of interest. The Title IX Deputy Coordinator for Students assists in overseeing 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 assists in overseeing all resolutions under this policy and these procedures related to complaints where an employee is the Respondent. The Sex-Based Harassment and Discrimination Team receives 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, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Title IX Deputy for Faculty, Staff, and Administrators or the Chief Equity and Inclusion Officer. Concerns of bias or a potential conflict of interest by any Title IX Deputy Coordinator or other members of the Sex-Based Harassment and Discrimination Team or Resolution Pool 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.

Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under this Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of this Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

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

Sex discrimination

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two primary forms:

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

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

Sex-based harassment

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,[3] including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) **Quid Pro Quo:** An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct

[3] Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

2) **Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity[4]

The University reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not prohibited by law. Addressing such conduct will not result in the imposition of discipline under the University's Sex-Based Harassment and Discrimination Policy, but may be addressed through other University policies, as applicable, respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

Sexual assault

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

The touching of the private body parts of the Complainant, 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.[5]

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Maryland law.

Statutory Rape

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

Violence[6] committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length

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[4] The University will conduct a fact specific inquiry to determine whether a hostile environment has been created. The inquiry will include consideration of the following: i) The degree to which the conduct affected the Complainant's ability to access the University's education program or activity; ii) The type, frequency, and duration of the conduct; iii) The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; iv) The location of the conduct and the context in which the conduct occurred; and v) Other sex-based harassment in the University's education program or activity

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

[6] 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 manipulation to restrict a person's access to money, assets, credit, or financial

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

Violence[5] 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

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.

Sexual exploitation

Taking non-consensual or abusive sexual advantage, that does not constitute sex-based harassment, 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:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)

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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.

- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

Retaliation

Adverse action, including intimidation, threats, coercion, or discrimination, against any person, by the University, a student, employee, or a person authorized by the University to provide an aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by law or Policy or because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Sex-Based Harassment and Discrimination Procedures, including an Informal Resolution process, or in any other appropriate steps taken by the University to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects (except that employees may be required to participate as a witness in a formal resolution process where they are not the Complainant or Respondent).

It is also not retaliation for the University to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Sex-based Harassment and Discrimination Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Reporting Sex-based harassment and discrimination

A Report provides notice to the University of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint.

Reporting carries no obligation to initiate a Complaint, and in most situations, the University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate a resolution process. For more information, please refer to the Section below, "Title IX Coordinator Authority to Initiate a Complaint," which contains more information on when the University may act despite the Complainant's request. If a Complainant does not wish to file a Complaint, the University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the University to discuss and/or provide supportive measures, in most circumstances.

Reports or Complaints of sex-based harassment and discrimination 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 of Title IX and Bias Compliance
105 Jenkins Hall
410-617-2763
dmtiscione@loyola.edu

Title IX Deputy Coordinator for Students:

Sydney Quantock, Assistant Director of Title IX and Bias Compliance
105 Jenkins Hall
410-617-2842
squantock@loyola.edu

Title IX Deputy Coordinator for Faculty, Staff, and Administrators:

Nikia Woodard, Director Employee Relations and Organizational Development
202J York Road Annex
410-617-1345
ntwoodard@loyola.edu

Reports about the Title IX Coordinator violating the Sex-based Harassment and Discrimination Policy should be made to the Title IX Deputy Coordinator for Faculty, Staff, and Administrators or Chief Equity and Inclusion Officer. Upon a report regarding an allegation about the Title IX Coordinator violating the Sex-based Harassment and Discrimination Policy being filed, the Title IX Coordinator will be required to recuse themselves from oversight of Title IX compliance related to that complaint.

Reports about a Title IX Deputy Coordinator violating the Sex-based Harassment and Discrimination Policy should be made to the Title IX Coordinator. Upon a report regarding an allegation about the Title IX Deputy violating the Sex-based Harassment and Discrimination Policy being filed, the Title IX Deputy will be required to recuse themselves from oversight of Title IX compliance related to that complaint.

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

Office for Civil Rights (OCR)

Philadelphia Office
The Wanamaker Building, 100 Penn Square East, Suite 515
Philadelphia, PA, 19107-3323
Email: OCR.Philadelphia@ed.gov

For Complaints involving employee-on-employee conduct: Equal Employment Opportunity Commission (EEOC)

EEOC Regional Office
George H. Fallon Federal Building, 31 Hopkins Plaza, Suite 1432
Baltimore, MD, 21201

Amnesty

Students who report sex-based harassment and/or discrimination, 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.

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 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.

On-campus Reporting Options

In addition to the reporting options outlined above, 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.

Title IX Intake Officers.

The University has identified a diverse group of staff and administrators, called Title IX Intake Officers, to expand the pool of reporting options who have specific enhanced knowledge of the sex-based harassment and discrimination process and resources. Title IX intake officers are regularly trained and 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 are mandated reporters and work closely with the Title IX coordinator to support Complainants and assist Complainants in navigating their resources and options. The list of Title IX Intake Officers and their contact information can be found on the Title IX and Bias Compliance website.

Mandated Reporters

All University employees, including faculty, staff, administrators, and undergraduate and graduate student employees, other than those deemed Confidential Employees, are Mandated Reporters. Mandated Reporters are expected to promptly report all known details of actual or suspected sex discrimination, sex-based harassment, retaliation, and/or other prohibited conduct to the Title IX Coordinator or designee. For emergency situations, Campus Police and the Residence Life & Housing on-call staff can be reached at 410-617-5010.

A report of alleged sex-based harassment and/or discrimination 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. The University encourages all members of the community to report sex-based harassment and discrimination, 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 supportive measures, the report, and whether they wish to proceed with a complaint or other resolution process.

Failure to report.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sex discrimination, sex-based harassment, or retaliation of which they become aware is a violation of the University Policy and the mandated reporter may be subject to disciplinary action up to and including termination under section 1.28 Discipline under Staff and Administrator Policy Manual. Failure to report may also constitute professional incompetence, non-performance of duties or responsibilities, and conduct inconsistent with professional standards according to the Rank and Tenure Policy Statement for faculty members.

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.

Classroom disclosures.

When mandated reporters become aware of conduct that may reasonably constitute sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct in academic settings, such as through writing assignments, discussions, or group presentations, they are considered to have notice and are expected to promptly report all known details of actual or suspected behavior.

Public Awareness events.

Mandated reporters who learn of conduct that may reasonably constitute sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct during a public event, which is sponsored by and hosted on property or platforms controlled by the University, to raise awareness about sex-based harassment, are required to promptly report all known details of the actual or suspected sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct to the Title IX Coordinator or designee. However, in order to protect the sanctity of public awareness events, as permitted by federal law, the University is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other persons. Nonetheless, the University will use reported information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

Online 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 Sex-based Harassment and Discrimination Policy and a clear statement explaining the date, time, and location including the nature and circumstances of the incident, if known. It is important to provide as much information as possible as this report may serve as a basis for investigation. If a complaint is initiated, the report will be shared with the Respondent, investigator, decision-maker(s), and administrators who oversee the Resolution 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 will seek to determine if the person wishes to proceed with a complaint or other resolution process, 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.

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 process under this Policy simultaneously or at a later date. Similarly, using the University's 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 sex-based harassment 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.

Confidential resources

This section describes the University's confidential resources for a Complainant or third party (including parents/guardians when appropriate). If an individual has experienced sex-based harassment and/or discrimination but does not want to report it to a University official, the student may meet with a confidential resource.

On-campus Confidential Resources.

There are three categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; 2) Those whom the University has specifically designated as Confidential Resources for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by the University's Institutional Review Board (IRB). For those in category 1 or 2, above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality[7] except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

To enable Complainants to access support and resources without filing a Complaint, the University has designated specific employees as Confidential Resources. Those designated by the University as Confidential Resources are not required to report actual or suspected sex discrimination, sex-based harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or a University official unless a Complainant has requested the information be shared. All of the persons or organizations listed below are confidential for purposes of reporting sex-based harassment and/or discrimination. 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)
- **Sexual Violence Prevention, Education, and Response Coordinator**
  Melissa Lees, Women's Center, Seton Court 04A
  410-617-6769

[7] Clergy acting in their capacity as Clergy do not have the same responsibilities to report in cases of threat, danger, or abuse of a minor, elder, or individual with a disability and will follow their professional religious expectation in such cases.

- **Employee Assistance Program[8]:**
  1-800-765-0770
  24-hour resource for employees to identify confidential resource
- **Jesuits**
  Individuals wishing to connect with a Jesuit should contact Campus Ministry at 410-617-2222 and request to be connected with a member of the Jesuit community. (Please note, Campus Ministry is not confidential, so prior to speaking with a Jesuit, individuals should take care to only share what they want a Mandated Reporter to report).

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 abuse or neglect 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

  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.

Preservation of Evidence and Seeking medical assistance

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

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 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 and Bias Compliance, 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

[8] The Employee Assistance Program itself is not a confidential resource, however, they can assist in identifying a confidential resource for an employee.

violence is uninsured, Mercy Medical Center can discuss options for financial assistance. IPV exams cannot be listed anonymously in the same way SAFEs can. The contact information for the hospital in Baltimore City is:

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

Preserving evidence

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining peace/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 urinate, shower, bathe, wash hands or face, or utilize other cleaning methods, but evidence may still be collected even if the Complainant choose these actions.
    - All clothing (including underwear) worn at the time of the assault should be put into a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement) 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 the Complainant is 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 and Bias Compliance website can be useful to track contacts and attempted contacts.

Supportive Measures

Upon receiving notice or a complaint of alleged sex discrimination, sex-based harassment, and/or retaliation, the appropriate Title IX Coordinator (or designee) will promptly offer and implement appropriate and reasonable supportive measures to the parties. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter sex discrimination, sex-based harassment, and/or retaliation.

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

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

These supportive measures may include but are not limited to:

- Academic support, such as rescheduling an academic assignment (paper, exam, etc.), referral for tutoring support, or other course/program related adjustments
- Changes to class schedules
- Changes to work schedules/situations
- Changes to work locations
- Increased security and monitoring of certain areas
- Leaves of absences
- No contact orders
- Referral to counseling, medical and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Referral to financial aid
- Relocating residence hall assignments
- Restricting access to certain campus buildings or locations
- Safety escorts to and from campus locations
- Transportation assistance
- Visa and immigration assistance
- Any other measures deemed appropriate by the Title IX coordinator

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 section Emergency Removal and Administrative Leave below.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

Request for Modification or Reversal of Supportive Measure Decision

The Parties will be provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. The University will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. A request to seek modification or reversal of a supportive measure decision should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. When an employee other than the Title IX Coordinator made the supportive measure decision, the Title IX coordinator will review and decide the request for modification or reversal of the supportive measure decision. When the Title IX coordinator made the supportive measure decision, the Title IX coordinator will designate an appropriate employee to review and decide the request for modification or reversal of the supportive measure decision. The University typically renders decisions on supportive measures within five (5) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title IX Coordinator, if applicable.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be referred for an alleged 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 may result in a disciplinary action that is separate and independent from the Resolution Process.

Confidentiality/Privacy

The University makes every effort to preserve the Parties' privacy. The University will not share the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

Unauthorized Disclosure of Information

The parties and their advisors are prohibited from and must sign an agreement acknowledging the prohibition of the following:

- Parties and Advisors are prohibited from disclosing information obtained by the University through the Resolution Process, to the extent that information is the work product of the University (meaning it has been produced, compiled, or written by the University for purposes of its investigation and resolution of a Complaint), without authorization.
- It is a violation of the University Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent.
- The parties and their advisors must not photograph or otherwise copy the evidence.

Violation of the Unauthorized Disclosure of Information Policy is subject to significant sanctions. Students who allegedly violated this provision will be referred for adjudication under Student Conduct of Conduct and may be charged with a violation of 6. Failure to Comply with Directives. Employees who allegedly violate this policy may be subject to disciplinary action up to and including termination under section 1.28 Discipline under Staff and Administrator Policy Manual. If a faculty member allegedly violates this policy, it may also constitute professional incompetence, non-performance of duties or responsibilities, and conduct inconsistent with professional standards according to the Rank and Tenure Policy Statement and will be addressed consistent with that policy. Advisors who allegedly violate this provision will be addressed consistent with the Advisor Policy Violation section below.

Emergency Removal and Administrative Leave

Emergency Removal

The University can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when the University, through an individualized safety and risk analysis, has determined that an imminent and serious threat to the health or safety of any student or other individual 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.

Administrative Leave for Employee Respondents

The University retains the authority to place an 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". Leave may be without pay when through an individualized safety and risk analysis, an imminent and serious threat to the health or safety of any student or other individual justifies such action.

Retaliation

Retaliation directed toward a Complainant or anyone else as a result of participating in a protected activity is strictly prohibited. Any incidents of retaliation by a student should be reported immediately to Residence Life & 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 through the Resolution Process as outlined in this Policy.

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.

Recordkeeping

The University will maintain for a period of at least seven years records of its Resolution Process, including:

1. Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
2. Any disciplinary sanctions imposed on the Respondent.
3. Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the University's education program or activity.
4. Any appeal and the result therefrom.
5. Any Informal Resolution and the result therefrom.
6. All materials used to provide training to the Title IX Coordinator(s), investigators, decision-makers, Resolution Process Pool members, and any person who facilitates an Informal Resolution process, will be made available for review upon request. Trainings occurring prior to August 1, 2024, are posted online on the Title IX and Bias Compliance website.
7. All materials used to train all employees consistent with the requirements in the Title IX Regulations.
8. The University will also maintain any and all records in accordance with state and federal laws.

Resolution Process

The University will act on any Notice, Complaint, or Knowledge of a potential violation of The Policy that the Title IX Coordinator or any other Mandated Reporter receives by applying the Resolution Process below. The University's process will provide for a prompt, fair, equitable, and impartial resolution, as defined below, of complaints of sex-based harassment and discrimination. This process will allow for all parties to be heard. Participants will be treated with dignity, respect, and sensitivity. Complaints regarding alleged violations of this Policy can be resolved informally or formally. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinators discretion. A Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the applicable Resolution Process. In the Resolution Process, the 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. In the informal resolution process, the facilitator will work collaboratively with the parties to resolve the complaint.

Resolution Process Pool

The Resolution Process relies on a pool of employees and externally contracted individuals ("the Pool") to carry out the process.

Ensuring Impartiality.

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Informal Resolution Facilitator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Informal Resolution Facilitator, Investigator(s), Decision-maker(s), and Appeal Decision-makers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. Except as outlined in the Formal Resolution section below, the Parties may raise a concern regarding bias or conflict of interest at any time during the Resolution Process, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If

so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Title IX Deputy Coordinator for Faculty, Staff, and Administrators or Chief Equity and Inclusion Officer.

Pool Member Roles.

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

Pool Member Appointment.

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

Training of Resolution Process Pool Officials.

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of the University's Sex-based Harassment and Discrimination Policy
- The University's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Treating Parties equitably
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes

- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX.

All investigators, Decision-makers, and other persons who are responsible for implementing the University's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Sex-based Harassment and Discrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with the University's Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- the University's obligations under Title IX
- How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

Requests to Inspect Training Materials.

The University will maintain copies of the materials from all Title IX training for the Resolution Process Pool members and employees. Individuals may request to inspect these materials by contacting the Title IX Coordinator. Trainings occurring prior to August 1, 2024, are posted online on the Title IX and Bias Compliance website.

Notice/Complaint

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

The Resolution Process begins with a complaint, which is an oral or written request to the University that can objectively be understood as a request for the University to investigate and make a determination about alleged Policy violation(s). Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the Office of Title IX and Bias Compliance and/or Title IX Coordinator or designee. The complaint should include sufficient details known at the time including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sex-based harassment, and the date, time and location of the alleged incident, if known. If a complaint 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 sex-based 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 sex-based harassment arise out of the same facts or circumstances.

Collateral Misconduct

Collateral misconduct is defined to include potential violations of other the University policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. The Resolution Process may be used to address collateral misconduct (e.g., vandalism, theft, physical abuse of another). In such circumstances, the Title IX Coordinator may consult with the University officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Code of Conduct, Faculty Handbook, and Staff and Administrator Manual.

Initial Evaluation

After receiving Notice/Complaint/Knowledge of alleged misconduct, the appropriate Title IX Coordinator conducts an initial evaluation typically within five business days. The initial evaluation typically includes:

- Offering and coordinating supportive measures for the Complainant.
- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
    - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether the University has jurisdiction over the reported conduct, as defined in the Policy.
    - If the conduct is not within the University jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate the University office for resolution.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including an Informal Resolution option or Formal Resolution as described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Offering and coordinating supportive measures for the Respondent, as applicable.

Notifying the Respondent of the available resolution options, including an Informal Resolution option or Formal Resolution as described below, if a Complaint is made.

Helping a Complainant to Understand Resolution Options.

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue an informal or formal resolution.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for Formal Resolution, and the Title IX Coordinator has determined the Policy applies and the University has jurisdiction, they will provide the Parties with a Notice of Investigation and Allegation(s) and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

Title IX Coordinator Authority to Initiate a Complaint.

To initiate a formal resolution under the Sex-based Harassment and Discrimination Policy, a Complainant would need to file a complaint. The University understands that some Complainants may seek confidentiality with respect to a report of sex-based harassment and/or discrimination, 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 sex-based harassment and/or discrimination unless the Complainant is willing to be identified.

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

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. 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. The Title IX coordinator or designee will evaluate a Complainant's request for confidentiality considering the University's obligation to maintain a safe campus environment for all. While rare, when the Title IX coordinator or designee determines there is a serious and imminent threat to someone's safety or if the University cannot ensure equal access without initiating a Complaint, the Title IX coordinator or designee may determine that the Complainant's request for confidentiality cannot be complied with fully and will initiate a complaint. 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 Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.
- The Complainant's reasonable safety concerns regarding initiating a Complaint.
- The risk that additional acts of discrimination would occur if a Complaint were not initiated.
- The severity of the alleged discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a University employee.
- The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether discrimination occurred.
- Whether the University could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator may consult with appropriate the University employees to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged 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.

Advisors in the Resolution Process

Who can serve as an advisor.

Except as noted below, the Complainant and Respondent may each have no more than two people, defined as advisors, present throughout the entire Resolution 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 Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available[9]. In matters involving employee Respondents, 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 sex-based harassment involving a student.

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from the University, the University will have trained the Advisor and familiarized them with the University's Resolution Process.

The University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide an attorney to advise that party.

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

If a party requests that all communication be made through their attorney Advisor instead of to the party, the University will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

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.

Advisor's Role in the Resolution Process.

The advisors may attend any meetings, interviews, and hearings within the Resolution Process, including intake, with the Complainant or Respondent. Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony (unless they are also participating as a witness) or speak on behalf of their advisee unless given specific permission to do so. The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview, except when such consultations at the meeting are deemed disruptive by the decision-maker or investigator. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation. Advisors can request an outline of their role and expectations, including the *Decorum Policy for Sex-based Harassment and Discrimination Proceedings*, for their participation in the grievance process.

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[9] Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. "Eligible" means the Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the investigator and/or Decision-maker(s).

Records Shared with Advisors.

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records the University shares with them, per Section 17 of the Policy addressing Confidentiality. Advisors may not disclose any the University work product or evidence the University obtained solely through the Resolution Process for any purpose not explicitly authorized by the University.

Accordingly, Advisors (and parties) will be asked to sign agreements regarding access to evidence. The University may decline to share materials with any Advisor who has not executed the agreement. The University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

Advisor Expectations.

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

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

Advisor Policy Violations.

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's *Decorum Policy for Sex-based Harassment and Discrimination Proceedings*, may be removed from the process, and the process will continue as outlined. If an advisor is removed for an alleged policy violation, additional appropriate measures may be implemented, including the University requiring the party to use a different Advisor or providing a different the University-appointed Advisor. Subsequently, the Title IX Coordinator, consistent with the *Decorum Policy for Sex-based Harassment and Discrimination Proceedings*, will determine how to address the Advisor's non-compliance and future role.

Dismissal

The University **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

1) The University is unable to identify the Respondent after taking reasonable steps to do so
2) The University no longer enrolls or employs the Respondent
3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
4) The University determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven. Prior to dismissal on this ground, the University will take reasonable efforts to clarify the allegations with the Complainant.

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

Upon any dismissal, the University will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the University will also notify the Respondent of the dismissal. Upon dismissal, the University will offer supportive measures to the Complainant as appropriate and to the Respondent as appropriate if the Respondent has been informed of the allegations.

This dismissal decision is appealable by any party.

In the case a student Respondent requests a leave or withdrawal from the University after a complaint has been filed under this Policy and Discrimination Policy, the University may not prohibit a student from taking a leave or withdrawing as it could be considered retaliation under Title IX regulations. However, should a student request a leave or withdraw after a complaint has been filed under this Policy, the University reserves the right to complete the Resolution Process or require that the process be completed prior to the student being permitted to re-enroll. Should an employee resign after a complaint has been filed against

them as a Respondent under this Policy, the University reserves the right to complete the Resolution Process and/or not rehire the employee in the future.

Appeal of dismissal.

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed to the Title IX coordinator or designee, who will serve as the Dismissal Appeal Officer. If the Title IX Coordinator made the decision to dismiss the complaint, the Title IX Deputy for Students, for student Respondents, or the Title IX Deputy for Faculty, Staff, and Administrators, for employee Respondents, will decide the appeal.

Throughout the dismissal appeal process, the University will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The appeal must be submitted within three (3) business days of the notification of the dismissal. If a party does not appeal the decision within this period, they have waived a right to appeal. The grounds for dismissal appeals are limited to:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome;
- The dismissal was erroneously granted or denied.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

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

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has five (5) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator, and the Parties will be notified of any extension.

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

Counter Complaints

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

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

Informal Resolution

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. To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties. However, 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 Resolution. The Facilitator of the Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

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. 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 before agreeing to a resolution. 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 *Formal Resolution* for the same complaint or another formal complaint involving the same parties and arising from the same allegations unless all parties consent.

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

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.

Notice of Informal Resolution and Allegations (NOIRA).

Before initiation of an Informal Resolution process, the University will provide the Parties with a NOIRA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the University's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the University will maintain, and whether and how it could disclose such information for use in its Resolution Process.

Informal Resolution Options.

The University offers three categories of Informal Resolution:

1) **Educational Conversation**. The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also

implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

2) **Accepted Responsibility**. The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option. If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and the University are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator provides a written copy of the agreement to the Parties, implements the accepted finding that the Respondent is in violation of the University Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary. This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume. When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.
3) **Alternative Resolution**. The institution offers a variety of alternative resolution mechanisms (which could include, but is not limited to, shuttle mediation, restorative practices, facilitated dialogue, etc.) to best meet the specific needs of the Parties and the nature of the allegations. With an Alternative Resolution, 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). Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate the University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

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

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

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

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

In such cases where an agreement is reached, the parties will be provided with a written copy of the agreement, the terms of the agreement are implemented, and the matter will be considered resolved and closed. The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable. If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

Formal Resolution

The following sections outline the investigation and hearing procedures for complaints of sex-based harassment and discrimination. Where a student is a party in the case as a Complainant or Respondent, the resolution will follow the steps below and will proceed through the Hearing Procedures (student involved complaint). Where only employees are parties in the case as a Complainant and Respondent, and no students are involved as a Complainant or Respondent, the resolution will follow the steps below and will proceed through the Decision Procedures (employee only complaint).

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

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

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.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the University reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

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

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

Notice of Investigation and Allegations (NOIA).

Once a complaint has been filed, the appropriate Title IX Coordinator (or designee) shall provide the Complainant and Respondent with timely written NOIA. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the University and not on the parties.
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), once known, along with a process to notify the Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share the University work product obtained through the Resolution Process
- A statement that the Parties may have up to two Advisors of their choice who may accompany them through all steps of the Resolution Process, as detailed in Advisor in the Resolution Process Section
- A statement informing 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
- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- An instruction to preserve any evidence that is directly related to the allegations

If the alleged conduct, if true, includes conduct that would constitute covered sex-based harassment and conduct that would not constitute covered sex-based 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 resolution process does not preclude the pursuit of criminal charges.

Evidentiary Considerations.

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as:

- Evidence that relates to the Complainant's sexual interests or prior sexual conduct/history unless 1) evidence about the Complainant's prior sexual conduct/history is offered to prove that someone other than the Respondent committed the alleged conduct, 2) is evidence to provide the source of an injury, or 3) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.
- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the University's resolution process. This includes a student's history of mental health counseling, treatment, or diagnosis;

The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

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

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

Investigation Procedures.

This section outlines the process of the investigation for a formal resolution.

Investigator Appointment.

Following notice to the parties, the appropriate Title IX Coordinator (or designee) will designate an impartial investigator(s) and coordinate the logistics of the investigation process. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the University's community.

Witness Role and Participation in Investigation.

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the University's investigation and Resolution Process. Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with the University investigations and to share what they know about a Complaint.

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

Investigation process.

All investigations will be conducted with fairness, equity, impartiality, and under a reasonably prompt timeframe. 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 Complainant and Respondent shall have the right to submit to the investigator evidence, witness lists, and suggested questions for the parties and witnesses.

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.

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

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings. The Investigator will permit the parties and witnesses to suggested changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the summary will be deemed to have been waived, and no changes will be permitted.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of five (5) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.

If a 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 parties, their advisors and the Decision-maker electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least five (5) business days in advance of the hearing.

Hearing Procedures (student involved complaint).

The following section details the hearing procedures for formal resolutions of sex-based harassment complaints for incidents involving a student Complainant or Respondent. In recognition of the unique nature of sexual misconduct cases, the procedures specified in this policy supersede any conflicting provisions of other University policy and 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 refer the matter to the Decision-maker for a hearing. In cases where the Respondent is a student, the decision-maker will typically consist of a three-member, including one chair, sexual misconduct hearing panel. In cases where the Respondent is an employee, the decision-maker will typically be one trained administrator from Human Resources.

Decision Maker Review and Selection (applicable to student involved complaints).

Prior to the decision-maker being selected and the hearing being scheduled, both the Complainant and Respondent will receive the list of Resolution Pool members who may serve as the decision-maker or appeal decision-maker and will have one University business day to request removal of any member who they believe could not be objective toward them based on previous interactions. In extenuating circumstances, a decision or appeal decision maker not listed in the original list may need to serve, and parties will have one University business day to request removal of that person if they believe the potential panel member could

not be objected toward them based on previous interactions. A request for removal must state with specificity the grounds for removal. The Title IX Coordinator (or designee) shall review the merits of a request for removal, including discussing with the challenged panel member(s) whether the member(s) could serve objectively. The Title IX Coordinator (or designee) shall make the final decision regarding removal. Once the lists have been given to the parties and request for removal, if any, have been reviewed and decided upon, the Title IX Coordinator or designee will select the decision-maker.

Hearing notice (applicable to student involved complaints).

The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least five (5) business days prior to the hearing. Once emailed, notice will be presumptively delivered. The hearing notice includes:

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

The decision-maker will receive a list of the names of all parties, witnesses, and advisors at least five (5) days in advance of the hearing. Any panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and advisors in advance of the hearing.

Witness Participation (applicable to student involved complaints).

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses must participate in a manner that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses invited to appear at the hearing will be present for a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused. Witnesses are not permitted to be accompanied by an advisor.

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

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer or winter break, as needed, to meet the University's resolution timeline and ensure a prompt resolution.

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

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

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and
- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

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

- Delay the hearing.

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

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

Pre-hearing Conference (applicable to student involved complaints).

A pre-hearing conference will be scheduled with each party, and their advisors may be present if the party chooses. At least two business days prior to the pre-hearing conference, parties may submit questions or topics they wish to have the panel ask or discuss at the hearing, so that the Chair can determine relevancy of the question or topic to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. The Chair will share their rationale for any exclusion or inclusion at this pre-hearing conference. This advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing.

The Decision-maker will work with the Parties to confirm a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, only with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

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

All participants are expected to maintain confidentiality regarding the proceedings, except that the Complainant and 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 Office of Title IX and Bias Compliance.

Hearing Process (applicable to student involved complaints).

All hearings will be conducted in a live hearing format which means all parties and the hearing panel 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 hearing panel and parties to see and hear the party or the witness answering questions. All hearings are closed to the public.

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of prohibited conduct under the Sex-based Harassment and Discrimination Policy and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the Sex-based Harassment and Discrimination, even though those collateral allegations may not specifically fall within the policy. The Decision-maker (or Chair if applicable) 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 designee).

A. **Evidentiary Considerations at the Hearing-** The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-

maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.
The new relevant evidence will be admitted to the record if:

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

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

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

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

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer any or all questions.

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

B. **Hearing modifications**- The Title IX coordinator or designee reserves the right to modify typical hearing procedures and/or process when extenuating circumstances warrant such modifications. Examples of extenuating circumstances include cross complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct. Any modifications to the typical hearing process will be shared with the parties at the pre-hearing conference.

C. **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.
    a. Introductions and Hearing Procedure Explanation- Generally, the hearing will begin with the panel Chair 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.
    b. Investigator Presentation of Final Investigation Report- The investigator(s) will present a summary of the final investigation report, including a review of facts that are contested and those that are not, and will be subject to questioning by the panel. The hearing panel should not ask the investigator(s) their opinions on recommended findings or determinations, and the investigators will refrain from discussion of these assessments.
    c. Testimony and questioning- The Complainant will have the opportunity to present a brief statement to the panel and respond to questions from the panel. The Respondent will then have an opportunity to present a brief statement to the panel and respond to questions from the panel. The panel will then call witnesses and may recall the parties and any witness for clarification.

In order to aid the Decision-maker in questioning parties and assessing credibility, after each party answers questions from the panel, the Decision-maker will allow the other party to suggest questions to the Decision-maker to ask. After a witness answers questions from the panel, the Decision-maker will allow the Complainant and Respondent to suggest questions to the panel to ask. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. The Decision-maker (or Chair if applicable) will share their rationale for any exclusion or inclusion after the party suggests the questions.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker will give a party an opportunity to clarify or revise their question if it is unclear or abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

After the Complainant, Respondent, and witnesses (if any) have answered questions by the panel, the Complainant and Respondent will have the opportunity to share a closing statement.

Hearing Recordings (applicable to student involved complaints).

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

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

Decision Procedures (employee only complaints).

The following section details the decision procedures for formal resolutions of sex-based harassment complaints for incidents where an employee is the Complainant and Respondent, and there are no student Complainant or Respondents. In recognition of the unique nature of sexual misconduct cases, the procedures specified in this policy supersede any conflicting provisions of other University policy and procedures.

Decision-Maker Review and Selection (applicable to employee only complaints).

Prior to the decision-maker being selected, both the Complainant and Respondent will receive the list of Resolution Pool members who may serve as the decision-maker or appeal decision-maker and will have one University business day to request removal of any member who they believe could not be objective toward them based on previous interactions. In extenuating circumstances, a decision or appeal decision maker not listed in the original list may need to serve, and parties will have one University business day to request removal of that person if they believe the potential panel member could not be objective toward them based on previous interactions. A request for removal must state with specificity the grounds for removal. The Title IX Coordinator (or designee) shall review the merits of a request for removal, including discussing with the challenged panel member(s) whether the member(s) could serve objectively. The Title IX Coordinator (or designee) shall make the final decision regarding removal. Once the lists have been given to the parties and request for removal, if any, have been reviewed and decided upon, the Title IX Coordinator or designee will select the decision-maker.

Decision Process (applicable to employee only complaints).

- The Title IX Coordinator will provide the Decision-maker, the Parties, and their Advisors with the final investigation report and investigation file.
- The Decision-maker will review the final investigation report, all appendices, and the investigation file.
- If the record is incomplete or if the Decision-maker has additional questions related to credibility or evidence relevant (and not otherwise impermissible) to the outcome, the decision maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including meetings with the Parties or any witnesses to discuss relevant and not otherwise impermissible evidence, if needed. If the Decision-maker holds additional meetings with the parties or witnesses, a summary of the meeting will be shared with the party or witness with whom the decision-maker

met. The Decision-maker will permit the party or witnesses with whom the meeting was held to suggest changes, edits, or clarifications. If the party or witness with whom the meeting was held does not respond within the time period designated for verification, objections to the accuracy of the summary will be deemed to have been waived, and no changes will be permitted. The summary(ies) will then be shared with both parties.

- Once all evidence has been collected and reviewed by the Decision-maker, the Decision-maker will proceed to deliberation.

Deliberation, Decision-making, and Standard of Proof (applicable to all formal resolutions).

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The Decision-maker will make findings of fact and determinations using a preponderance of evidence standard. The Decision-maker 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 will consider the additional statements and 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. If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.

Additional Statements (applicable to all formal resolutions).

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 Chair, which describes how the incident has affected them or why there are mitigating factors. The statement(s) is reviewed by the Decision-maker 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, a copy will be provided to both parties with the decision letter.

Sanctions (applicable to all formal resolutions).

Violations of the Sex-based Harassment and Discrimination policy are serious, and the most serious offenses are likely to result in suspension, expulsion, or termination where warranted. Given the seriousness of these violations, the University reserves the right to notify parents/guardians regarding the sanctions and outcomes of Sex-based Harassment and Discrimination policy violations. Factors the Decision-maker may consider when determining sanctions include but are not limited to: interests of the University community, the impact of the violations on the victim(s), previous documented misconduct history, and any mitigating or aggravating circumstances.

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

Student sanctions.

The range of sanctions includes the following as defined in Community Standards Section E. Sanctions and Outcomes for Violations of the Student Code of Conduct:

- Status Sanctions
    - Residence hall probation
    - Disciplinary probation
    - Deferred suspension from the residence halls
    - Deferred suspension from the University
    - Suspension from the residence halls
    - Suspension from the University
    - Expulsion
- Additional sanctions
    - Alcohol and drug screening/education/treatment
    - Athletics department notification
    - Civility hours

- Continuation/modification of supportive measures
- Core advisor notification
- Educational project
- Fine
- Loss of room selection privileges
- Mentoring with an administrator
- Periodic drug testing
- Postponement of activity participation and conferring of honors and degrees
- Reflection with Campus Ministry or a Jesuit
- Relocation to another residence
- Removal from employment positions
- Restitution
- Restorative practices referral
- Restricted access or privileges
- Restricted contact
- Senior week restrictions
- Social restrictions
- Student development assessment and evaluation
- Written reprimand

Employee sanctions.

- 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.

Notice of Outcome (applicable to all formal resolutions).

The Complainant and Respondent will be informed concurrently in writing of the outcome of the resolution normally within ten (10) University business days after the conclusion of the resolution. The written outcome notification may be emailed to the Parties' University-issued or designated email account. Once emailed, the outcome notification is presumptively delivered.

The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the University is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent the University is permitted to share under federal or state law.

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

Appeal of Formal Resolution Outcome (applicable to all formal resolutions).

The following section outlines the appeal procedures for an appeal of a formal resolution outcome. The appeal process applies to cases adjudicated through the Formal Resolution (student involved) and Formal Resolution (Employee only) processes.

Request for appeal.

Any party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome. The Title IX Coordinator will forward the appeal to the Appeal Decision-maker. In cases involving a student Respondent, the Appeal Decision-maker will typically be a three-person (inclusive of the chair) panel of

Resolution Pool members. In cases involving an Employee Respondent, the Appeal Decision-maker is one trained individual from the Resolution Pool, which is typically the Chief People and Culture Officer or designee. In cases where the Respondent is found not responsible for violation of Sex-based Harassment and Discrimination policies, the appeal process described in this section will still apply. The burden is on the party appealing to provide support in the appeal letter for the asserted grounds.

An appeal must be based upon one or more of the following grounds:

1) A procedural irregularity that would change the outcome.
2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome.
4) 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 Appeal Decision-maker renders a decision. Supportive measures remain available during the appeal process. If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within one (1) business days of implementation.

In cases where appeals are submitted by both parties, both appeals will be considered together by the same Appeal Decision-maker. If a party does not appeal the decision within this period, they have waived a right to appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Title IX Coordinator. The University reserves the right to have a modified board hear the appeal when circumstances warrant it.

The Request for Appeal will be forwarded to the Appeal Decision-maker (or Chair if applicable) for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed. 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 Appeal Decision-maker or that the appeal should be dismissed without further proceedings, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors. All other Parties and their Advisors and, when appropriate, the Title IX Coordinator, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them.

The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

Appeal Determination Process.

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

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

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

For appeals based on the party alleging that the sanctions imposed are grossly disproportionate to the findings of responsibility, the Appeal Decision-maker may only affirm, reduce, or increase the sanctions assigned by the original hearing panel. For appeals

based on other grounds, the Appeal 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 and affirm or change the sanction (sanction may be reduced or increased); or remand the matter to the original hearing panel for further consideration. Upon remand, if the original hearing panel affirms its prior decisions regarding responsibility and sanctions, the Appeal Decision-maker shall continue its review and render a decision on the original appeal(s). If the original hearing panel reverses or modifies its original decisions regarding responsibility and/or sanctions, each party shall have a right to appeal to the University Board on Discipline.

Except in cases involving the discovery of new evidence, the Appeal 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 hearing panel. In cases where the appeal is based in whole or in part on a claim of newly discovered evidence, the Appeal 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 Appeal Decision-maker determines that the evidence was not known nor reasonably available at the time of the hearing and that it would change the decision of responsibility or determination of sanction, the Appeal Decision-maker will remand the case to the original hearing panel for review. Upon review, the original hearing panel will issue a new decision letter taking into account the newly discovered evidence. All decisions made by the appeal panel 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 Appeal Decision-maker may require a new hearing with a different Decision-maker.

Appeal outcome.

A Notice of Appeal Outcome letter ("Appeal Outcome") will be sent to all Parties simultaneously. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the University is permitted to share under federal or state law.

Written notification will be emailed to the Parties' University-issued email or otherwise approved account. Once emailed, the Appeal Outcome will be presumptively delivered.

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

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the four (4) available appeal grounds.

Remedies

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the University community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence. At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found. When no Policy violation is found, the Title IX Coordinator will address any remedies the University owes the Respondent to ensure no effective denial of educational access. The University will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the University's ability to provide these services.

Revision of this Policy

This Policy succeeds previous policies addressing sex discrimination, sexual harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings. The Title IX Coordinator or designee will be responsible for determining what adjustments need to be made to the policy or the process applied to comply with the most recent government laws, regulations, or court holdings.

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

This Policy is effective 08-01-2024.

Aspects of this policy were adapted from ATIXA 2024 One Policy, One Process Model.