

Loyola University Maryland Sexual and Gender-Based Misconduct Policy

The following is the University's *Sexual and Gender-Based Misconduct Policy*, which includes how Loyola University Maryland (the University) prevents Sexual and Gender-based Misconduct, the process for reporting sexual and gender-based misconduct, and the procedures for adjudicating sexual and gender-based misconduct allegations. The University will interpret and apply this Policy based on any changes to local, state, or federal government laws or regulations, or court decisions regarding sexual and gender-based policies that alter the requirements in a way that impacts this Policy, and this Policy will be construed to comply with the most recent government laws, regulations, or court holdings.¹

Scope of Sexual and Gender-Based Misconduct Policy

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

Related Policies

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

- [Bias-Related Behaviors Policy](#) (Student Respondents)
- [Loyola University Maryland Harassment and Discrimination Policy](#) (Employee Respondents)

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, national origin (including shared ancestry or ethnic characteristics), sex (including pregnancy), 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, dmiscione@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") of the Department of Education, or both. Inquiries about discrimination related to any other protected class

¹ As stated above, 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.

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:

- Title IX related conduct (Sexual and Gender-Based Misconduct) – [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 Maryland is authorized under Federal Law to enroll non-immigrant, alien students.

Jurisdiction

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

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

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

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

Online Harassment and Misconduct

University policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited by this Policy, 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.

Although the University may not control websites, social media, and other venues through which harassing or discriminatory communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects, including but not limited to the offering and implementation of supportive measures and/or a resolution process.

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

Definitions

Advisor- a person chosen by a Party or appointed by the institution who may accompany the Party to all meetings related to the Sexual and Gender-Based Misconduct Policy and advise the Party on that process. In hearings for behavior that fall under the Title IX Formal Resolution Process, the advisor may conduct cross-examination for the Party. The advisor may not cross-examine Parties or witnesses in hearings or proceedings that fall within the University's General Sexual Misconduct Process.

Appeal Decision-maker/Appeal Hearing Panel- 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 Complaint Process Pool typically comprise a panel to serve as the Appeal Decision-maker. For employee cases, typically a trained individual from Office of People and Culture who serves in the Complaint Process 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 has allegedly been subjected to conduct that could constitute a violation of this Policy and/or retaliation for engaging in a protected activity.

Complaint (formal)- a document filed/signed by a Complainant who is enrolled or is participating in an educational program or activity at the University or signed by the Title IX Coordinator or designee alleging Prohibited Conduct, as defined by this Policy, and requesting that the University investigate the allegation. Formal complaints may also be received from Complainants with respect to claims falling outside Title IX and which would be subject to the University's General Sexual Misconduct Process.

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

Consent- an affirmative indication by words and/or actions of a clear, 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(s)- those who have decision-making and sanctioning authority within the University's Sexual and Gender-Based Misconduct Formal Resolution Process for employees.

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

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

Employee- Faculty, staff, and administrators, including 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.

Final Determination- A conclusion by a preponderance of evidence that the alleged conduct did or did not violate the Policy. This includes a determination regarding responsibility of a Policy violation.

Finding- A conclusion by the preponderance of evidence that the conduct did or did not occur as alleged (as in a "finding of fact").

Formal Resolution- The Investigation and Hearing process to resolution Formal Complaints. It is inclusive of the Title IX Formal Resolution Process and General Sexual Misconduct Formal Resolution Process. It includes a Formal Complaint, Investigation, Hearing, and Appeal consistent with relevant state and federal law.

General Sexual Misconduct Formal Resolution- The process implemented to resolve Formal Complaints of incidents that do not meet federally prescribed Title IX jurisdiction. As described in detail below, this process involves a Formal Complaint, Investigation, Hearing, and Appeal and complies with state and federal laws other than Title IX. This term includes the Student Respondent General Sexual Misconduct Formal Resolution Process and Employee Respondent General Sexual Misconduct Formal Resolution Process.

Hearing Panel- those who have decision-making and sanctioning authority within the Student Respondent Sexual and Gender-Based Misconduct Formal Resolution Process.

Informal Resolution- a resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination by a decision-maker/hearing panel.

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 of Relevant Evidence and a file of Directly Related Evidence.

Mandated Reporter- a University employee who is obligated by Policy to share knowledge, notice, and/or reports of sexual harassment and/or retaliation with the appropriate Title IX Coordinator or

deputy.²

Notice- When an employee, student, or third-Party informs the Title IX Coordinator, Title IX Deputy Coordinator, or Officials with Authority of the alleged occurrence of sexual harassment or other Prohibited Conduct.

Official with Authority (OWA)-A University Employee who has responsibility to implement responsive measures for Sexual Harassment and/or Other Prohibited Conduct on the University's behalf.

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

Reasonable Person- A reasonable person under similar circumstances and with similar identities to the Party(ies).

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

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

Respondent- A person who is alleged to have engaged in conduct that could constitute prohibited conduct under this Policy.

Resolution- the result of an informal or formal resolution proceeding.

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

Sexual Harassment- the umbrella category of Sexual and Gender-based Misconduct including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Prohibited Conduct section for greater detail.

Sexual Misconduct Resolution Team- The Title IX Coordinator, any deputy coordinators, and any member of the Complaint Process Pool.

Title IX Coordinator- at least one official designated by the University to ensure compliance with Title IX and the University's Title IX program including the Sexual and Gender-Based Misconduct Policy. References to the Title IX Coordinator throughout this Policy may also encompass Title IX Deputy Coordinators for specific roles and tasks.

Title IX Formal Resolution- The process implemented to comply with 34 CFR Part 106.45 grievance process. As described in detail below, this process involves a Formal Complaint, Investigation, Hearing, and Appeal as prescribed by federal Title IX regulations. This term includes the Student Respondent Title IX Formal Resolution Process and Employee Respondent Title IX Formal Resolution Process.

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

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.

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

Witness (Fact)- defined as 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 Sexual and Gender-based Misconduct Process.

Anyone needing such accommodations or support may request reasonable accommodations for disclosed disabilities to the appropriate Sexual Misconduct Resolution Team member at any point before or during the process that do not fundamentally alter the Process. The Title IX Coordinator or designee will work with Disability and Accessibility Services (for students) and Office of People and Culture (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 Sexual Misconduct Resolution Team 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 Sexual Misconduct

Members of the University community are expected to respect the rights, dignity, and personhood of others. The Title IX Coordinator and Deputies are responsible for ensuring comprehensive Sexual and Gender-Based Misconduct education and training. Educational programs to promote the awareness of domestic violence, dating violence, sexual assault, and stalking are offered during new student orientation, in new employee orientation, in the residence halls, and on campus throughout the academic year. Such prevention and awareness programs include a statement that the University prohibits all forms of Sexual and Gender-based Misconduct, definitions of various types of Sexual and Gender-based Misconduct and 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 Sexual and Gender-based Misconduct, there are resources available for community members who experience those behaviors, which are outlined in *Reporting Sexual Misconduct* below. Additionally, the University has formalized agreements with local law enforcement and designated rape crisis centers governing interactions between the University and those organizations surrounding incidents of Sexual and Gender-based Misconduct.

Title IX Independence and Conflict of Interest

The Title IX Coordinator oversees the implementation of the Sexual and Gender-Based Misconduct 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. Members of the Office of Title IX and Bias Compliance and Complaint Resolution Pool receive annual training and are trained to ensure they are not biased for or against any Party in a specific Formal Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the 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 other members of the Sexual and Gender-Based Misconduct Team or Complaint Process pool, including any Title IX Deputy Coordinator or other members of the Office of Title IX and Bias Compliance Team, should be raised with the Title IX Coordinator. Upon receiving a concern of bias or conflict of interest, the Chief Equity and Inclusion Officer in collaboration with the Title IX Deputy for Faculty, Staff, and Administrators (in cases of concern raised about the Title IX Coordinator) or the Title IX Coordinator (in cases of concern raised about other members of the Sexual and Gender-Based Misconduct Team or Resolution Pool) 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.

Reporting Sexual Misconduct

A report provides the University Notice of an allegation or concern about Sexual and Gender-based Misconduct and provides an opportunity for the Title IX Coordinator or designee to provide information, resources, and supportive measures. A Formal Complaint informs the University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Formal Complaint.

Reporting carries no obligation to initiate a Formal Complaint, and in most situations, the University is able to respect a Complainant's request to not initiate a Formal Complaint. 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 Formal Complaint. For more information, please refer to the *Title IX Coordinator Authority to Initiate a Formal Complaint* Section below, which contains more information on when the University may act despite the Complainant's request. If a Complainant does not wish to file a Formal Complaint, the University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice which allows the University to discuss and/or provide supportive measures, in most circumstances.

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 or designee seeks to determine if the Complainant wishes to make a Formal Complaint, and will assist them to do so, if desired. If they do not wish to do so, the Title IX Coordinator or designee determines whether to initiate a complaint.

A report, allegations, or notice of Sexual and Gender-based Misconduct 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-Scorziello, J.D., 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
Humanities 025
410-617-1345
ntwoodard@loyola.edu

Reports about the Title IX Coordinator (the Director of Title IX and Bias Compliance) violating the Sexual and Gender-Based Misconduct 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 Sexual and Gender-Based Misconduct Policy being filed, the Title IX Coordinator may be required to recuse themselves from oversight of Title IX compliance related to that complaint.

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

Collectively, these individuals are responsible for coordinating the University's timely, thorough, and fair response; investigation and resolution of alleged prohibited conduct under the Policy; and monitoring the effectiveness of, and any barriers to, accessing the Policy and related procedures to ensure an education and employment environment free from Sexual and Gender-based Misconduct.

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

External Contact Information

Inquiries regarding applicable federal law governing the Sexual and Gender-based Misconduct Policy 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>

For allegations of Employee-on-Employee misconduct, contact the [Equal Employment Opportunity Commission](#) (EEOC) or EEOC Regional Office:

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

Amnesty

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

Time Limits on Reporting

There is no time limitation on reporting incidents and/or filing Formal Complaints to the University. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on reports or Formal Complaints is significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) and is at the discretion of the Title IX Coordinator (or designee), who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. When a report or Formal Complaint is affected by significant time delay, the University will typically apply the Policy in place at the time of the alleged misconduct.

On-campus Reporting Options

In addition to the reporting methods outlined above, reports can also be made anonymously or identified using the methods outlined below. While anonymous reports are accepted, the report may give rise to a need to try to determine the Parties' identities. Additionally, anonymous reports typically limit the University's ability to investigate, respond, and provide remedies, depending upon what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous reports.

Officials with Authority.

The University has determined a list of administrators who are Officials with Authority (OWA) to institute corrective measures when on notice of Sexual and Gender-Based Misconduct. In addition to the Title IX Coordinator and Deputies listed above and others at the University with such authority, the University has designated Title IX and Bias Intake Officers as OWAs. The University identified Title IX and Bias Intake officers, a diverse group of staff and administrators, to expand the pool of reporting options who have specific enhanced knowledge of the Sexual and Gender-Based Misconduct process and resources. Title IX and Bias 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 Formal Complaint. Title IX and Bias Intake Officers are mandated reporters and work closely with the Office of Title IX and Bias Compliance to support Complainants and assist Complainants in navigating their resources and options. The list of Title IX and Bias Intake Officers and their contact information can be found on the [Title IX and Bias Compliance website](#).

Mandated Reporters.

All University ³employees, including faculty, staff, and administrators (other than those deemed Confidential Resources), Graduate Assistants in SIRJP, and Resident Assistants, are Mandated Reporters. Mandated Reporters are expected to promptly report all known details of actual or suspected Sexual and Gender-Based Misconduct and/or other Prohibited Conduct to the Title IX Coordinator or designee. Supportive measures may be offered as the result of such disclosures without formal University action.

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

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

For emergency situations, Campus Police and the Residence Life & Housing on-call staff can be reached at 410-617-5010. A report of alleged Sexual and Gender-based Misconduct against any member at the University may be made by any community member, guests, visitors and other third Parties by contacting the appropriate Title IX Coordinator (or designee), or Title IX and Bias Intake Officer listed above. The University encourages all members of the community to report Sexual and Gender-based Misconduct 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 the report and whether they wish to proceed with a Formal Complaint.

Failure to report.

Failure of a Mandated Reporter, as described above in this section, to report an incident of Sexual and Gender-based Misconduct or other Prohibited Conduct of which they become aware is a violation of University Policy, and the Mandated Reporter may be subject to disciplinary action up to and including termination under the relevant employee discipline Policy. For Staff and Administrators, the disciplinary action would be addressed consistent with 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.

Generally, disclosures in climate surveys, classroom writing assignments, discussions or group presentations, in conversations heard indirectly among students (e.g. in a hallway), human subjects

³ Student Employees, other than those serving as Resident Assistants or Graduate Assistants in the SIRJP, are not considered Mandated Reporters. However, they may provide the Complainant with information about how to report sexual and gender-based misconduct.

research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by Mandated Reporters, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the University.

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) experiencing the Sexual and Gender-based Misconduct, the Name(s) of individual(s) alleged to have violated the Sexual and Gender-Based Misconduct Policy, and a clear statement explaining the date, time, and location including the nature and circumstances of the incident. It is important to provide as much information as possible as this report may serve as a basis for investigation. If a Formal Complaint is filed, the report will be shared with the Respondent, Investigator, hearing panel members, decision-maker(s), and/or administrators who oversee the Formal Resolution process, and the Title IX Coordinator (or designee), among others, and a copy will be provided to the Complainant.

Reporting to law enforcement

The University encourages any student or employee who has experienced domestic violence, dating violence, sexual assault, stalking or other crime to report the incident to the Baltimore City Police or local law enforcement in the jurisdiction where the incident took place and encourages students who experience these behaviors to additionally consult their parents/guardians. The Title IX Coordinator and/or 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 the University may contact the Title IX Coordinator or Title IX deputy.

Actions by the police or criminal courts do not in any way preclude the Complainant from utilizing the University’s Sexual and Gender-based Misconduct Process simultaneously or at a later date. Similarly, using the University’s Sexual and Gender-based Misconduct Process does not preclude the pursuit of criminal charges.

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 Sexual Misconduct but does not want to report it to a University official, they may meet with a confidential resource.

On-campus Confidential Resources.

All of the persons and organizations listed below and in this paragraph are confidential for purposes of reporting Sexual and Gender-based Misconduct (“Confidential Resources”). Reports made to a licensed counselor, clergy acting in their pastoral role, a treating health care provider, or the Sexual Violence Prevention, Education, and Response Coordinator (when reported by students) are confidential and will not be reported to University officials without the individual’s permission unless an imminent threat exists or a child sex offense is disclosed. They will, however, provide the Complainant with the Office of Title IX and Bias Compliance’s contact information and offer options and resources without any obligation to inform a University official unless a Complainant has requested the information be shared. Confidential Resources may be required to report statistical information, without personally identifiable data, for Clery Act reporting. If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following

- **Counseling Center**
Humanities Building, room 150
410-617-CARE (2273)
- **Sexual Violence Prevention, Education, and Response Coordinator for Students:**
Melissa Lees, McAuley Women’s Center, Seton Court 04A
410-617-6769
- **Student Health Services**
Seton Court 02A
410-617-5055
- **Employee Assistance Program⁴:**
1-800-765-0770
24-hour confidential resource for employees to identify confidential resource

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
- 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.

Federal Statistical Reporting Obligations

Reports of violations under this Policy may also constitute violations of state and local law. University officials have a duty to report the following for federal statistical reporting purposes (Clery Act):

⁴ The Employee Assistance Program itself is not a confidential resource, however, they can assist in identifying a confidential resource for an employee.

- 1) All “primary crimes,” which include criminal homicide, Sexual Assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include Sexual Assault, Domestic Violence, Dating Violence, and Stalking⁵
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) must be shared with the Director of Public Safety for publication in the Annual Security Report, daily campus crime log, or through the issuance of a Timely Warning Notice. Campus Security Authorities, community members required to report incidents for federal statistical reporting purposes, include Advisors to student organizations, Athletic directors, Campus law enforcement/public safety, Coaches, People and Culture employees, Local police, Residence Life and Housing employees, Student Integrity and Restorative Justice Practices staff, and any other official with significant responsibility for student and campus activities.

Preservation of Evidence and Seeking Medical Assistance

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

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 Exams (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 violence

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

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, domestic violence, dating violence and stalking is critical and particularly time sensitive to potential criminal prosecution and/or obtaining peace/protective orders. 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, brush teeth, utilize other cleaning methods, smoke, eat, or drink, but evidence may still be collected even if the Complainant chose 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.
 - Seeking medical treatment can be essential even if it is not for the purpose of collecting forensic evidence
- Dating or Domestic Violence
 - Log any incident of abuse (verbal, physical, emotional, or otherwise). Suggested steps for logging incidents can be found below in the section on preserving evidence in stalking incidents.
 - Take timestamped photos of injuries or any damage to property.
 - If you are injured during an incident, seeking medical attention may be needed.
- Stalking
 - 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 or a witness 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.
 - If changing devices, make sure to transfer any files needed to the new device

Resources such as a stalking log, which can be accessed on the Title IX website can be useful to track

contacts and attempted contacts.

Supportive Measures

Upon receiving notice or a Formal Complaint, the Title IX Coordinator (or designee) will promptly offer supportive measures to the Parties designed to restore or preserve access to the University's education program, activity, or work environment. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge and can include actions deemed necessary to protect the well-being of the individuals involved in cases of Sexual and Gender-based Misconduct, as well as the educational environment of the University community or to deter sexual harassment.

At the time that supportive measures are offered, if a Formal Complaint has not been filed, the Title IX Coordinator or designee will inform the Complainant, in writing, that they may file a Formal Complaint with the University either at that time or in the future. The Title IX 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 the 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 the other 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
- Connect with resources to discuss visa and immigration options
- 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.

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. False allegations may be a form of Harassment or Retaliation or may fall within other University policies.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, hearing, or informal resolution can be 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 Sexual and Gender-based Misconduct 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 report of Sexual and Gender-based Misconduct; any Complainant; any individual who has been reported to be the perpetrator of Sexual and Gender-based Misconduct; 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

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

By reviewing evidence obtained by the University through the Formal Resolution Process, the Parties and their advisors agree not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Student Respondent Title IX Formal Resolution Process or General Sexual Misconduct Formal Resolution. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020). The Parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

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.

Promptness

All allegations are acted upon promptly by the University once it has received notice or a Formal Complaint. Generally, Formal Complaints can take at least 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the

University will avoid all undue delays within its control.

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

Emergency Removal and Administrative Leave

Emergency Removal for Student Respondents

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This process will be implemented as outlined in *Immediate Interim Removal from Campus and Suspension Policy* of the Community Standards.

Administrative Leave for Employee Respondents

The University retains the authority to place an employee Respondent on administrative leave during the Sexual and Gender-Based Misconduct Process, consistent with section 1.29 in the Staff and Administrator Policy Manual or “Article Eleven: Suspension” in the Faculty Handbook”.

Recordkeeping

The University will maintain for a period of at least seven years records of its Title IX Formal Resolution Process or General Sexual Misconduct Formal Resolution, including:

1. Each investigation of Prohibited Conduct including any 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 remedies provided to the Complainant designed to restore or preserve equal access to the University’s education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom; and
6. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the University’s education program or activity; and
 - c. If no supportive measures were provided to the Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.
7. All materials used to train Title IX Coordinators, Investigators, decision-makers, Resolution Pool members, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the [Office of Title IX and Bias Compliance website](#).

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

Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of Sexual and Gender-Based Misconduct 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 Sexual and Gender-Based Misconduct 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.

Definitions of Prohibited Conduct that May be Subject to the University's Title IX Formal Resolution Process

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

Sexual Harassment: Conduct on the basis of sex which may include such behavior as unwelcome sexual advances, requests, and other verbal, written, or electronic communications or physical conduct of a sexual nature when (1) an employee of the University conditions⁶ the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct; or (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Sexual assault: 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.

Non-consensual Sexual Contact: The intentional touching of the clothed or unclothed body parts⁷ without the consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation⁸ or the Respondent forcing the touching by the Complainant of the Respondent's clothed or unclothed body parts, without consent of the Complainant for the

⁶ Explicitly or implicitly

⁷ Body parts is defined as genitals, buttocks, groin, breasts, or other body parts.

⁸ Contact with body parts is considered to be done for the purpose of sexual degradation, sexual gratification, or sexual humiliation unless: (1) the contact can be proven inadvertent; (2) the contact is for a legitimate medical (or other privileged) purpose and thus is conduct for which consent should have been sought and obtained by the provider; (3) the contact involves a Respondent who is pre-sexual, based on maturity/age (thus their intent is not sexual); (4) the contact involves a Respondent who cannot developmentally understand sexual contact or that their contact is sexual; or (5) The contact is something like butt-slapping on a team and is both minimal and unlikely to have sexual motivation or purpose, as shown by the context of the act(s).

purpose of sexual degradation, sexual gratification, or sexual humiliation.

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 : Violence⁹ 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 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: Violence⁹ 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 Respondent directly, indirectly, or through third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

⁹ 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 the Complainant, 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 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. Additionally, legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if it is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof. Lastly, consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

Definitions of Prohibited Conduct that may be Subject to the University's General Sexual Misconduct Formal Resolution Process

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

The following behaviors that fall outside of the Title IX Formal Resolution Process will be adjudicated under the University's General Sexual Misconduct Process as outlined below (i.e., Student Respondent General Sexual Misconduct Formal Resolution or Employee Respondent General Sexual Misconduct Formal Resolution), and may be included in a Formal Complaint as collateral misconduct allegations under the Title IX Formal Resolution Process.

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

Hostile Environment Harassment: Conduct, which need not be severe or pervasive, that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when based on the totality of the circumstances, the conduct unreasonably creates a living, working, or learning environment that a reasonable person would perceive to be abusive or hostile.

Sexual exploitation: Taking non-consensual or abusive sexual advantage, that does not constitute sexual harassment, of another person for one's own advantage or benefit 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)
- Electronically distributing (e.g., Airdropping, Snapchatting) nude or sexual photos or videos of another person without their consent
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity

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

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 Sexual and Gender-Based Misconduct 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.

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

Retaliation

Any retaliation, reprisal, or intimidation directed toward a Complainant or anyone else as a result of participating in a protected activity is strictly prohibited. Protected activity under this Policy includes reporting an incident that may constitute a violation of this Policy, participating in the SIRJP or Sexual and Gender-based Misconduct Process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. Any incidents of retaliation by a student should be reported immediately to the Title IX Coordinator (or designee). Incidents of retaliation are considered a serious violation. Allegations of retaliation are handled in accordance with the normal rules and procedures of the SIRJP process, and students alleged to have violated this Policy may be charged with 17. Retaliation. Any employee who is alleged to have violated this provision may be subject to disciplinary action under section 1.28 Discipline under Staff and Administrator Policy Manual.

It is prohibited for the University or any member of the University's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

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

Misconduct Process 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.

Sexual and Gender-Based Misconduct Process

The University's Process provides for a prompt, fair, equitable, and impartial investigation and resolution of all Formal Complaints of Sexual and Gender-based Misconduct. These procedures will allow for all Parties to be heard. Participants will be treated with dignity, respect, and sensitivity. A Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the applicable Formal Resolution Process. The hearing panel or decision-maker will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness. Complaints regarding alleged violations of the Sexual and Gender-based Misconduct Policy can be resolved informally or formally.

Determining Applicable Process

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

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

Occasionally, a Formal Complaint will include conduct that falls both "under Title IX" and not "under Title IX". When that occurs, the Title IX Formal Resolution Process will typically be used to address all allegations.

Lastly, when aspects of this Policy apply to both the Title IX Formal Resolution Process and the University's General Sexual Misconduct Formal Resolution, it will be referred to as the Sexual and Gender-based Misconduct Process.

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

When a Respondent is both a student and an employee of the University, the University will decide whether to address the incident under the Student Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures or the Employee Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures by making a fact-specific inquiry to determine 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.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator (or designee) 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 or to these policies and procedures to which their employer has agreed to be bound by their contracts.

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

Similarly, the appropriate Title IX Coordinator (or designee) may be able to assist and support a Complainant who experiences Sexual and Gender-Based Misconduct or discrimination in an externship, study abroad program, external work commitment, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a Student or Employee's education or employment environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

Complaint Process Pool

The University relies on a pool of employees and externally contracted individuals ("Complaint Process Pool") to carry out the Title IX Formal Resolution Process and General Sexual Misconduct Formal Resolution.

Complaint Process 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

Complaint Process Pool Member Appointment.

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

Ensuring Impartiality.

No individual materially involved in the administration of the Sexual and Gender-based Misconduct Process, including the Title IX Coordinator, Informal Resolution Facilitator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent.

The Title IX 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 Sexual and Gender-based Misconduct Process, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Complaint Process 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 for Faculty, Staff, and Administrators or Chief Equity and Inclusion Officer. If the source of the conflict of interest or bias is the Title IX Deputy for Students or the Title IX Deputy for Faculty, Staff, and Administrators, concerns should be raised with the Title IX Coordinator.

Training of Formal Resolution Process Officials.

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

Resolution Timeline

The University will make a good faith effort to complete the Sexual and Gender-based Misconduct

Process within a 60-90 business day period, excluding appeal. Investigations are completed expeditiously, normally within 60 business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

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

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

Filing a Formal Complaint

The Sexual and Gender-based Misconduct Process begins with a Formal Complaint, which is a document filed and/or signed by the Complainant or signed by the Title IX Coordinator alleging a violation of the Prohibited Conduct section in this Policy by a Respondent and requesting that the University investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, or by using the contact information in the section above. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. The Formal Complaint must include sufficient details known at the time including the identities of the Parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date, time and location of the alleged incident, if known. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to determine whether the Complainant is requesting the University initiate an investigation or other appropriate resolution.

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

Collateral Misconduct

Collateral misconduct includes potential violations of other 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. Thus, the collateral misconduct (e.g., vandalism, theft, physical abuse of another) may be charged along with potential violations of the Policy, to be resolved jointly under the Sexual and Gender-based Misconduct Process. In such circumstances, the Title IX Coordinator may consult with the University officials who typically oversee such conduct (e.g., Office of People and Culture, Office of Student Integrity and Restorative Justice Practices (SIRJP), Academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the Title IX Coordinator’s discretion. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Community Standards, Faculty Handbook, and Staff and Administrator Manual.

Initial Assessment

Once a Formal Complaint is filed, the Title IX Coordinator or designee conducts a prompt assessment, typically within five business days.

The initial assessment typically includes:

- Offering and coordinating supportive measures for the Parties.
- 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 or process 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 file a Formal Complaint.
- Notifying the Respondent of the available resolution options if a Formal Complaint is made.

Helping a Complainant to Understand Resolution Options.

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

If the Complainant chooses a 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 the procedures defined below.

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. According to Federal Law, Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant. According to Maryland state law, Informal Resolution cannot be used to resolve a Formal Complaint of sexual assault.

If the Complainant indicates they do not want any action taken, no Sexual and Gender-based Misconduct 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 this Policy, a Complainant would need to file a Formal Complaint. Upon making a Formal 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 consistent with this Policy.

The University understands that some Complainants may seek confidentiality with respect to a report of Sexual and Gender-based Misconduct, including requesting that they not be identified to the Respondent. Due to the usually private nature of these actions and the need to ensure a fair process for all involved, the University may not be able to pursue charges of Sexual and Gender-based Misconduct unless the Complainant is willing to be identified. If the Complainant requests confidentiality or that a report is not pursued, the Title IX coordinator or designee will evaluate the request for confidentiality considering its obligation to maintain a safe campus environment for all. Additionally, in such cases, if the circumstances allow the University to honor the Complainant's request, the University will continue to offer supportive measures and remedies to the Complainant and the community but will not otherwise pursue Formal Resolution.

If the Complainant initially elects to take no action, they can decide to pursue a Formal Complaint at a later date. However, delays in filing a Formal Complaint may cause limitations on access to evidence or present issues with respect to the status of the Parties, such as a Respondent no longer being employed or enrolled by the University.

While rare, the Title IX coordinator or designee may determine that the Complainant's request for confidentiality cannot be complied with fully. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community. The University reserves the right to file a Formal Complaint and complete a Formal Resolution in cases where:

- There is a witness of or objective evidence regarding the alleged violation.
- Pursuing the case is necessary to protect the University community.

The Title IX Coordinator's decision to sign a Formal Complaint on behalf of the Complainant should be based on whether there is a compelling risk to physical health and/or safety that requires the University to pursue formal action to protect the community. The Title IX Coordinator may consult with appropriate University employees in considering elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint. Additionally, the Title IX Coordinator may be compelled to sign a Formal Complaint on behalf of the Complainant if the person alleged to have engaged in conduct prohibited by this Policy is an employee.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Resolution fairly and effectively. Should a Formal Complaint not meet the standards to pursue a Formal Resolution, the University will dismiss complaints as outlined in section Dismissal of a Formal Complaint (Mandatory and Discretionary).

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who experienced the alleged Prohibited Conduct.

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

Advisors in Sexual and Gender-based Misconduct 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 Sexual and Gender-based Misconduct 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 available¹⁰. Parties have the right to choose not to have an Advisor in the initial stages of the Formal Resolution Process, except as outlined below. When a Formal Complaint involving employee Complainants or Respondents is addressed under the General Sexual Misconduct Formal Resolution, 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 or in cases 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 Sexual and Gender-based Misconduct Process.

Students who are Complainants or Respondents may access attorneys paid for by the Maryland Higher Education Commission (MHEC) or who agree to participate on a pro bono (without charge) basis. Information for students regarding accessing counsel through MHEC can be found on the MHEC website, <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx>. Counsel for students may not be available through MHEC for complaints involving allegations of sexual and/or gender-based harassment only.

Students or employees may knowingly and voluntarily choose not to have counsel. Additionally, the University cannot guarantee equal Advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not, or cannot afford an attorney, the University is not obligated to provide an attorney to advise that Party. However, all institutionally appointed Advisors will be provided with similar training.

If the Parties choose an Advisor from outside the Complaint Process Pool, the Advisor may not have been trained by the University and may not be familiar with this Policy or University resources.

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.

Advisor's Role in the Sexual and Gender-based Misconduct Process.

The advisors may attend any meetings, interviews, or hearings within the Sexual and Gender-based Misconduct 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

¹⁰ 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).

questions on their own behalf throughout the Sexual and Gender-based Misconduct Process. Although the Advisor generally may not speak on behalf of their advisee, Advisors may consult privately with the Complainant or Respondent, except when such consultations during questioning of the Party they are advising at a proceeding are deemed disruptive by the hearing chair, decision-maker, or Investigator. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation. Further, Advisors may assist the Party they are advising with the exercise of any right during the proceedings.

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.

The University may also make reasonable provisions to allow an Advisor to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

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

The advisor is not allowed to address the Investigators, hearing panel, or decision-makers except to engage in cross-examination during the live hearing portion of the Title IX Formal Resolution Process. There is no direct cross-examination by Parties or their advisors permitted in General Sexual Misconduct Formal Resolution for cases that fall outside the Title IX Formal Resolution Process (although, in all cases, Parties will be given the opportunity to submit relevant questions to be asked of the other Party and any witnesses, as described more specifically in the applicable processes).

Advisors can request an outline of their role and expectations for their participation in the Sexual and Gender-Based Misconduct Process.

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 Sexual and Gender-Based Misconduct 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 Sexual and Gender-Based Misconduct Proceedings*, will determine how to address the Advisor's non-compliance and future role.

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. 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.

Dismissal of a Formal Complaint (Mandatory and Discretionary)

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

1. The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined in Prohibited Conduct subject to the University's Title IX Formal Resolution Process, even if proven; and/or
2. The conduct did not occur in the University's educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. The Complainant is not participating in or attempting to participate in the education program or activity of the University at the time of filing the Formal Complaint, and it would not be unreasonable in light of the known circumstances to allow the dismissal.

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

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

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

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

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties. Additionally, the University will continue offering supportive measures to the Complainant as appropriate and to the Respondent as appropriate if the Respondent has been informed of the allegations. When the University dismisses a Formal Complaint because it does not meet Title IX jurisdictional elements, the Title IX Coordinator or designee will assess which other policies, if any, may apply and refer the matter for resolution under the relevant disciplinary process. Complaints regarding students alleged to have violated the Sexual and Gender-Based Misconduct Policy not within the jurisdiction of Title IX will be investigated and adjudicated under the Student Respondent General Sexual Misconduct Process; Employees alleged to have violated the Sexual and Gender-Based Misconduct Policy not within the jurisdiction of Title IX will be investigated and addressed under the Employee Respondent Sexual and Gender-based Misconduct Process.

When the Title IX Coordinator has signed a Formal Complaint and later determines that the basis for signing is no longer compelling, the Title IX Coordinator may rescind the Formal Complaint and notify the Parties accordingly.

Appeal of dismissal.

The Parties may appeal the dismissal determination of a Formal Complaint or any included allegations 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. The appeal must be submitted within five University business days of receipt of the dismissal letter, indicating the grounds for appeal. If a Party does not appeal the decision within this period, they have waived a right to appeal. A Complainant or Respondent may appeal on one of the following grounds:

- The Party alleges that there were procedural irregularities that affected the outcome of the dismissal;
- The Party alleges new evidence that was not reasonably available when the determination of dismissal of the complaint was made that could affect the outcome of the dismissal;
- The Party alleges the Title IX Coordinator or Deputies, Investigators, or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the dismissal.
- The Party alleges the Title IX Coordinator or designee who dismissed the complaint did not appropriately apply the criteria of this section when deciding the dismissal.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. When an appeal letter is accepted, the other Party will be given notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five University business days.

At the conclusion of the response period, the Dismissal Appeal Officer, or designee who may be a University administrator, a hearing panel member, or an external Party, will be appointed to decide the appeal.

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

If any of the asserted grounds in the appeal satisfy the grounds described in the Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator, if applicable, of their decision and rationale in writing. The effect will be to reinstate the Formal 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 5 business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's (or designee) discretion, and the Parties will be notified of any extension.

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

The Dismissal Appeal Officer may consult with the Title IX Coordinator, if applicable, and/or legal counsel on questions of procedure or rationale for clarification, if needed.

Counter Complaints

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

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

Notice of Allegations and Process

Once a Formal Complaint has been filed, the Title IX Coordinator (or designee) will provide the Complainant and Respondent with timely written notice of the allegations and the Sexual and Gender-based Misconduct Process. When an Informal Resolution is requested, a Notice of Informal Resolution and Allegations (NOIRA) will be provided. When a Formal Resolution is requested, a Notice of Investigation and Allegations (NOIA) will be provided.

Notice of Informal Resolution and Allegations (NOIRA).

Before initiation of an Informal Resolution process, the Title IX Coordinator will provide the Parties with a NOIRA including:

- The allegations including identities of the Parties involved in the incident, if known, the date, time and location of the alleged violation, if known, and the conduct allegedly constituting the violation
- The requirements of the Informal Resolution process including the circumstances under which the University precludes the Parties from resuming a formal complaint arising from the same allegations
- A statement that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the Formal Resolution with respect to the formal complaint
- Any possible consequences or outcomes resulting from participating in the informal resolution process
- Records that will be maintained or could be shared
- An overview of the Informal Resolution process and options

Notice of Investigation and Allegations (NOIA).

The Title IX Coordinator will provide the Parties with written Notice of the Investigation and Allegations (NOIA) once a Formal Complaint has been filed and a Formal Resolution process has been initiated. The NOIA will include:

- The allegations including identities of the Parties involved in the incident, if known, the date, time and location of the alleged violation, if known, and the conduct allegedly constituting the violation
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Respondent is presumed not responsible for the alleged conduct
- A statement that a determination regarding responsibility is made at the conclusion of the Formal Resolution (grievance process)
- The range of potential sanctions associated with the alleged violation, and the rights and

- responsibilities under this Policy and regarding other civil and criminal options
- A statement about the University's Policy on Retaliation
- Information about process confidentiality
- Information on the need for each Party to have an Advisor of their choice and suggestions for ways to identify an Advisor
- 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 informing the Parties that if they knowingly make false statements or knowingly submit false information during the Sexual and Gender-based Misconduct 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 Sexual and Gender-based Misconduct Process.
- Information about how a Party may request disability accommodations or other support assistance during the Formal Resolution

Notification will be made in writing and may be delivered in person or emailed to the Parties' University-issued email accounts. Once emailed, and/or received in-person, notice is presumptively delivered.

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment but other violations of University Policy, the process outlined in this section will be applied in the investigation and adjudication of all 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 Sexual and General Based Misconduct Process. Similarly, pursuit of charges through the University's Sexual and General Based Misconduct Process does not preclude the pursuit of criminal charges. In cases where law enforcement directs the University to suspend its investigative efforts, the University will cooperate with all investigative efforts and will promptly resume its own investigation or adjudication of the case when permitted to do so.

Informal Resolution

Once a Formal Complaint has been filed, the matter may be resolved through an Informal Resolution. 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. The purpose of an Informal Resolution is to take appropriate action to address and remedy the alleged behavior and its effects, short of the Formal Resolution process. Informal Resolutions may include but are not limited to 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. Informal Resolutions will be facilitated by trained staff as described below. However, Informal Resolution will not be used in cases of alleged sexual assault or for student complaints against employees under this Policy.

When Parties wish to engage in an Informal Resolution, 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. It is not necessary to pursue

Informal Resolution first in order to pursue a Formal Resolution Process. Neither Party is required to accept responsibility for the alleged conduct in order to proceed with an Informal Resolution (but certain restorative justice resolution options may require an acknowledgement of the behavior to be available), and accepting an informal resolution does not necessarily mean there has been a finding of a Policy violation.. Either Party may decide not to proceed with or to end informal resolution in favor of Formal Resolution at any time. The Title IX Coordinator (or designee) has the discretion to determine whether a complaint is appropriate for an Informal Resolution and retains discretion to terminate an ongoing Informal Resolution process at any time. The Parties may agree, as a condition of engaging in Informal Resolution, that information disclosed during the Informal Resolution process may not be used as evidence during a 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 the investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Informal Resolution Approaches.

- 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 Formal Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX 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 Formal 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 acknowledgement of the behavior 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 has the authority to determine whether Informal 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 Informal 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 Informal Resolution.

The imposition of remedies or interventions obtained through an Informal Resolution may be achieved by an agreement acceptable to the Parties and University. The Title IX Coordinator (or designee) will facilitate the development of this agreement. 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. Agreements reached through informal resolution are considered final, are not appealable, and cannot be referred for formal resolution, except if the Respondent fails to satisfy the terms of the agreement. In such cases, or where an agreement is not reached and the Complainant wishes to proceed with Formal Resolution or the Title IX Coordinator (or designee) determines that further action is necessary, the matter may be referred for a Formal Resolution.

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

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.

The Title IX Coordinator (or designee) will maintain all records of matters referred for informal resolution.

Formal Resolution

The following sections outline the Formal Resolution Process for complaints involving a student Respondent or employee Respondent.

Witness Role and Participation in the Investigation.

Witnesses who are University employees are strongly encouraged to cooperate with and participate in the Loyola's Formal Resolution Process. Student witnesses and witnesses from outside the University community are encouraged to cooperate with the Formal Resolution process, including investigations, and to share what they know about a Formal Complaint.

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

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

Formal Resolution Evidentiary Considerations.

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

Neither the investigation nor the hearing will consider:

- 1) Questions or evidence about the Complainant's sexual predisposition¹¹
- 2) Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent, to prove the source of an injury, or to prove prior Sexual and Gender-based Misconduct¹²
- 3) Questions or evidence about a Party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist unless the Party or witness provides voluntary, written consent for the records to be considered. This includes evidence regarding a Party's medical history, including mental health counseling, treatment, or diagnosis.

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

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

Student Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures.

The following sections outline the Formal Resolution Process for complaints involving a student Respondent under Title IX Formal Resolution Process or the General Sexual Misconduct Formal Resolution Process.

¹¹ The University defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

¹² The University defines "prior sexual behavior" to include only sexual actions taken by or involving a Complainant prior to the reported incident(s), not the absence of such actions.

Investigation procedures.

[Applicable to Both Student Respondent Title IX Formal Resolution Process and Student Respondent General Sexual Misconduct Formal Resolution Process]

This section outlines the process of the investigation for a formal resolution. All investigations will be conducted with fairness, equity, impartiality, and under a reasonably prompt timeframe, generally within 60 business days. The Title IX Coordinator (or designee) will provide regular status updates to the Parties throughout the investigation.

Investigator Appointment.

Following notice to the Parties, the 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.

Interview Recording.

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

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another Party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

Investigation Process.

Investigations involve interviews with all available, 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.

Except as noted below, to be considered at the hearing, 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.

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

Investigations typically involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose and that they are permitted to attend and shall

have the right to be accompanied by no more than two people, including a personal supporter of the Party's choice, an attorney, or an advocate.

- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses
- Allowing the submission of questions each Party wishes to have asked of another Party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and Party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File

Prior to the conclusion of the investigation, the Investigator shall prepare a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, including both evidence indicating the alleged behavior occurred or did not occur, and accurately summarizes the investigation and Party and witness interviews. Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator(s) to not be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigation report.

The Complainant and Respondent and their advisor(s) will receive a copy of the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination. The Parties may submit a written response to the Title IX Coordinator (or designee) within 10 days. The Parties may elect to waive the full 10 days.

If a written response has been submitted, the Investigator(s) will evaluate the information from the Parties and will incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report. The Investigator(s) should document all rationales for any changes made after the review and comment period and respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report.

The Investigator will share the Final Investigation Report and Directly Related Evidence File with the Title IX Coordinator or designee for their review and feedback. After the Investigator completes the Final Investigation Report, the Title IX Coordinator (or designee) will provide the Final Investigation Report to the Parties and their advisors and the SIRJP, including all evidence- relevant and/or directly related to the complaint- submitted by the Parties and witnesses. After the Title IX coordinator (or designee) provides the report to the Parties and their advisors, the Parties may submit a written response to the SIRJP within 10 days. A hearing will be scheduled before a hearing panel at least 10 days following the investigative report being sent by the appropriate Title IX Coordinator (or designee).

Hearing Procedures.

[Applicable to Both Student Respondent Title IX Formal Resolution Process and Student Respondent General Sexual Misconduct Formal Resolution Process]

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties and their advisors, the Title IX Coordinator (or designee) will refer the matter to SIRJP for a hearing. In recognition of the unique nature of Sexual and Gender-based Misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

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 Title IX Coordinator.

Incidents that meet the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX will be adjudicated by the procedures outlined in Student Respondent Title IX Formal Resolutions. Incidents that do not meet the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX will be adjudicated by the procedures outlined in Student Respondent General Sexual Misconduct Formal Resolution.

Joint Hearings.

In Formal Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly. The hearing will be formatted to most effectively address and consider the Formal Complaints.

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

Witness Participation in the Hearing.

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Hearing Panel and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor.

All witnesses interviewed as part of the investigation will be notified of the date, time, and location of their portion of the hearing typically 5 days prior to the hearing.

If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Hearing Chair may reschedule the hearing.

Hearing Panel Review and Selection.

The Director of SIRJP (or designee) will select a three-member hearing panel from the Complaint Process Pool. The hearing panel will generally be comprised of the Director of SIRJP (or designee) and two additional trained panel members.

The hearing panel members will not have had any previous involvement with the Formal Complaint. The Title IX Coordinator or Hearing Chair may elect to have an alternate from the Complaint Process Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigator(s) will be witnesses in the hearing and therefore may not serve as a hearing panel member. Those who are serving as Advisors for any Party may not serve as a hearing panel member in that matter.

The Title IX Coordinator may not serve as a hearing panel member in the matter but may serve as an

administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Hearing Chair.

Prior to the panel being selected and the hearing being scheduled, both the Complainant and Respondent will receive the list of potential hearing panel and appeal panel members 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 trained hearing or appeal panel member 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, Director of SIRJP (or designee), will select the hearing panel.

Hearing Participants.

Persons who may be present for a hearing include the Hearing Panel, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Hearing Chair. Witnesses are present only during their portion of the testimony.

The Hearing Chair 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.

Collateral Misconduct.

At the hearing, the Hearing Panel has the authority to hear and make determinations on all allegations of Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged Policy violations that have occurred in concert with the sexual and gender-based misconduct, even though those collateral allegations may not specifically fall within the Policy.

Disability Accommodations and Other Assistance.

Hearing participants should contact the Hearing Chair at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.

Hearing Notice.

Typically at least 5 days prior to the hearing, the hearing Chair will send the Parties information via email:

- The date, time, 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 identity of the Hearing Panel, how to request disability accommodations or other assistance

The hearing Chair will give the panel 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.

Student Respondent Title IX Formal Resolution Process.

[Applicable to Student Respondent Title IX Formal Resolution Only]

All hearings, also known as proceedings, described in this section apply to the adjudication of Formal Complaints alleging prohibited conduct under this Policy that meets the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX. The hearing will be conducted in accordance with the procedures outlined in this section with special sensitivity to the nature of the charges and the best interests of all Parties involved.

A. Pre-hearing Conference.

The Hearing Chair will offer to convene a pre-hearing conference with each Party and their advisors to familiarize them with the hearing process and to discuss evidence that may be explored during questioning. At least two business days prior to the pre-hearing conference, Parties should submit the questions or topics they wish to ask or discuss at the hearing, so that the Hearing Chair can rule on the relevance of the question or topic to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude additional questions- both new and follow-up questions- to be asked at the hearing and does not limit a Party's opportunity for cross examination as described below.

At each pre-hearing meeting with a Party and their advisors, the Hearing Chair will consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

Pre-hearing meeting(s) will not be recorded. The Pre-hearing Conference will typically be conducted as separate meetings with each Party/Advisor, and can be done remotely, or as a written communication exchange. The Hearing Chair will work with the Parties to establish the format and timing of the meetings. Additionally, the Hearing Chair will document and share their rationale for any evidence or question exclusion or inclusion with each Party prior to the hearing to assist in preparation for the hearing.

B. Hearing Procedures.

All hearings will be conducted in a live hearing format which means typically all Parties and the Hearing Panel will be located in separate rooms with technology enabling the Hearing Panel and Parties, if they so choose, to simultaneously see and hear the Party or Witness while that person is speaking. However, in certain circumstances, the Hearing Panel and Parties may be physically present in the same geographic location, though the Hearing Chair retains discretion to determine whether the hearing will occur in via video technology or in person. All hearings are closed to the public. The University shall create an audio recording of the hearing, but all other recordings are prohibited.

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 notice of the Final Investigation Report sent to the Parties by the Title IX Coordinator (or designee).

- 1. Evidentiary Considerations at the Hearing-** Any evidence that the Hearing Chair determines is relevant may be considered. The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), have proffered a written statement, or answered written questions. Evidence offered or Witnesses participating for the first time after the Final Investigation Report has been completed will be evaluated by the Hearing Chair for relevance. If deemed relevant, the Parties and Hearing Chair must agree to consider it

as evidence at the hearing. If the evidence is deemed not relevant, the Hearing Chair may proceed with the hearing absent the new evidence.

The new Relevant Evidence will be considered at the hearing if:

- All Parties and the Hearing Chair assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already being considered at the hearing, 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 Hearing Chair may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least three (3) business days to review the Relevant Evidence
- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

2. **Advisor role at hearing-** The Parties may each have no more than two people, defined as advisors, present throughout the entire Sexual and Gender-based Misconduct Process. The advisor(s) may consult privately with the Party they are advising during the hearings, except when such consultations during questioning of the Party they are advising at a hearing are deemed disruptive by the Hearing Chair, and assist the Party that they are advising with the exercise of any right during the proceedings. The advisor(s) is not allowed to address the Hearing Panel during the hearing except for the purpose of cross-examination. Disruptive advisors will be removed from the process, and the process will continue. The Parties should notify the Chair as soon as they have identified their advisors, but in any event, at least one University business day in advance of the hearing date if a Party plans to bring advisors. Advisors can request an outline of their role and expectations, including the *Decorum Policy for Sexual and Gender-Based Misconduct Proceedings*, for their participation in the Formal Resolution process.

Only one of the advisors is permitted to conduct cross-examination. The advisor responsible for all cross-examination must be designated by the Party to the Chair prior to beginning cross examination.

3. **Order of the hearing-** The order described in this section is the order typically followed at a hearing but may be adjusted for good cause.
 - a. **Introductions and Hearing Overview-** The hearing will begin with the Hearing Chair reviewing the rights and responsibilities for the Parties, and the Parties and Hearing Panel will introducing themselves. Next, the Hearing Chair will read the charges against the Respondent and ask if they believe they are responsible or not responsible for the charges.
 - b. **Investigator Presentation of Final Investigation Report-** The Investigator(s) will then present a summary of the Final Investigation Report, including a review of facts that are contested and those that are not. The Investigator may be

questioned first by the Hearing Panel and then the Parties (through their advisors). Neither the Parties nor the hearing panel should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Chair will direct that it be disregarded.

- c. **Testimony and Questioning-** The Complainant will then have an opportunity to present a brief statement to the panel of relevant information and respond to questions from the Hearing Panel. After the Complainant's statement and questioning from the Hearing Panel, the Respondent (through their Advisor) will be permitted to cross-examine the Complainant consistent with the procedures outlined below. Next, the Respondent will have the opportunity to present a brief statement of relevant information to the Hearing Panel and respond to questions from the Hearing Panel. After the Respondent's statement and questioning from the Hearing Panel, the Complainant (through their Advisor) will be permitted to cross-examine the Respondent consistent with the procedures outlined below. Next, the Hearing Panel will then call witnesses who will first be questioned by the Hearing Panel before the Complaint and Respondent (through their advisors) will be permitted to cross-examine the witness. The Hearing Panel and may recall the Parties and any witness for clarification.
 - d. **Closing statements-** The Respondent and Complainant will each have the opportunity to make a closing statement to the Hearing Panel prior to the conclusion of the hearing.
4. **Cross-examination-** Cross-examination of both Parties and witnesses by an advisor of choice will be permitted during the live hearing and will occur after the Hearing Panel questions the Party or witness. If a Party does not have an advisor present at the live hearing, the University will provide without fee or charge to that Party, an advisor of the University's choice, who is not required to be an attorney, to conduct cross-examination on behalf of that Party. If a Party or witness is not participating in the hearing, cross-examination questions will not be asked of that Party or witness. All questions are subject to the Hearing Chair's relevance determination. The advisor will pose the question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Hearing). The proceeding will pause to allow the Hearing Chair to consider the question, and the Hearing Chair will determine whether the question will be permitted, disallowed, or rephrased. The Hearing Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Chair may explore arguments regarding relevance with the advisors, if the Chair so chooses. The Chair will then state their decision and the rationale to exclude a question as not relevant, or to reframe it for relevance and advise the Party/witness to whom the question was directed, accordingly.
5. **Refusal to Submit to Questioning or Attend Hearing-** Any Party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Hearing Panel can only rely on the available Relevant Evidence in making a Final Determination. The Hearing Panel 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.

If charges of Policy violations other than those subject to the Title IX Formal Resolution Process are considered at the same hearing, the hearing panel may consider all evidence it deems relevant, may rely on any relevant statement made without respect to a person's attendance at the hearing or participation in cross-examination, and may draw reasonable inferences from any decision by any Party or witness not to participate or respond to questions.

Student Respondent General Sexual Misconduct Process.

[Applicable to Student Respondent General Sexual Misconduct Formal Resolution Only]

All hearings described in this section, also known as proceedings, will be to adjudicate Formal Complaints submitted through the Sexual and Gender-Based Misconduct process alleging prohibited conduct under this Policy, dismissed under Title IX because it does not meet the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX, and referred for investigation and adjudication through the procedures described below. The hearing will be conducted in accordance with the normal rules and procedures of the Student Code of Conduct with special sensitivity to the nature of the charges and the best interests of all Parties involved. In recognition of the unique nature of Sexual and Gender-based Misconduct cases, the procedures specified in Student Respondent General Sexual Misconduct Formal Resolution Process supersede any conflicting provisions of the SIRJP Policy and procedures.

A. Pre-hearing Conference.

The Hearing Chair will offer to convene a pre-hearing conference with each Party and their advisors to familiarize them with the hearing process and to discuss evidence that may be explored during questioning. At least two business days prior to the pre-hearing conference, Parties must 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.

At each pre-hearing meeting with a Party and their advisors, the Hearing Chair will consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

Pre-hearing meeting(s) will not be recorded. The Pre-hearing Conference will typically be conducted as separate meetings with each Party/Advisor, and can be done remotely, or as a written communication exchange. The Hearing Chair will work with the Parties to establish the format and timing of the meetings. Additionally, the Hearing Chair will document and share their rationale for any evidence or question exclusion or inclusion with each Party prior to the hearing to assist in preparation for the hearing.

B. Hearing Procedures.

All hearings will be conducted in a live hearing format which means typically all Parties and the Hearing Panel will be located in separate rooms with technology enabling the Hearing Panel and Parties to at least hear the Party or the witness answering questions. However, in certain circumstances, the Hearing Panel and Parties may be physically present in the same geographic location, though the Hearing Chair retains discretion to determine whether the hearing will occur in via video technology or in person. All hearings are closed to the public. The University shall create an audio recording of the hearing, but all other recordings are prohibited. In recognition of the unique nature of Sexual and Gender-based Misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

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 notice of the Final Investigation Report sent to the Parties by the Title IX Coordinator (or designee).

- 1. Evidentiary Considerations at the Hearing-** Any evidence that the Hearing Chair determines is relevant may be considered. The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), have proffered a written statement, or answered written questions, unless all Parties and the Chair assent to the witness's participation in the hearing. Evidence offered or Witnesses participating for the first time after the Final Investigation Report has been completed will be evaluated by the Hearing Chair for relevance. If deemed relevant, the Parties and Hearing Chair must agree to consider it as evidence at the hearing. If the evidence is deemed not relevant, the Hearing Chair may proceed with the hearing absent the new evidence.

The new Relevant Evidence will be considered at the hearing if:

- All Parties and the Hearing Chair assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already being considered at the hearing, 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 Hearing Chair may, at their discretion, engage in any of the following actions:

- Delay the hearing
 - Provide the Parties with at least three (3) business days to review the Relevant Evidence
 - Remand the Formal Complaint back to the Investigator for further investigation or analysis
 - Allow the Parties time to review and comment on the new evidence
- 2. Advisor role at hearing-** The Parties may each have no more than two people, defined as advisors, present throughout the entire Sexual and Gender-based Misconduct process. The advisor(s) may consult privately with the Party they are advising during the hearings, except when such consultations during questioning of the Party that they are advising at a hearing are deemed disruptive by the Hearing Chair, and assist the Party that they are advising with the exercise of any right during the proceedings. The advisor(s) is not allowed to address the Hearing Panel or question witnesses. Disruptive advisors will be removed from the process, and the process will continue. Parties should notify the Hearing Chair as soon as they have identified their advisors, but in any event, at least one University business day in advance of the hearing date if a Party plans to bring advisor(s). Advisors can request an outline of their role and expectations, including the *Decorum Policy for Sexual and Gender-Based Misconduct Proceedings*, for their participation in the Student Respondent General Sexual Misconduct Process.
 - 3. Order of the hearing-** The order described in this section is the order typically followed at a hearing but may be adjusted for good cause.

- a. **Introductions and Hearing Overview-** The hearing will begin with the Hearing Chair reviewing the rights and responsibilities for the Parties, and the Parties, Hearing Panel, and hearing attendees introducing themselves. Next, the Hearing Chair will read the charges against the Respondent and ask if they believe they are responsible or not responsible for the charges.
 - b. **Investigator Presentation of Final Investigation Report-** The Investigator(s) will then present a summary of the Final Investigation Report, including a review of facts that are contested and those that are not. The Investigator may be questioned first by the Hearing Panel, and then the Parties may suggest questions to the Hearing Panel to ask. The Parties should not suggest nor should the Hearing Panel ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Chair will direct that it be disregarded.
 - c. **Testimony and Questioning-** The Complainant will then have an opportunity to present a brief statement to the panel of relevant information and respond to questions from the Hearing Panel. After the Complainant's statement and questioning from the Hearing Panel, Hearing Chair will allow the Respondent to suggest questions for the Hearing Panel to ask. Next, the Respondent will have the opportunity to present a brief statement of relevant information to the Hearing Panel and respond to questions from the Hearing Panel. After the Respondent's statement and questioning from the Hearing Panel, the Hearing Chair will allow the Complainant to suggest questions for the Hearing Panel to ask. Next, the Hearing Panel will call witnesses who will first be questioned by the Hearing Panel before Hearing Chair permits the Complaint and Respondent to suggest questions for the Hearing Panel to ask. The Hearing Panel may recall the Parties and any witness for clarification. The Hearing Chair will share their rationale for any exclusion or inclusion after the Party suggests the questions.
 - d. **Closing statements-** The Respondent and Complainant will each have the opportunity to make a closing statement to the Hearing Panel prior to the conclusion of the hearing.
4. **Proposing Questions to Other Parties and Witnesses-** Neither the Party nor their advisor(s) are permitted to directly question the other Party or witnesses. However, after a Party or witness provides testimony as described above, the Hearing Chair will permit the Parties to meet separately and privately with the Hearing Chair to suggest questions for the Hearing Panel to ask of the other Party or witness. All questions are subject to the Hearing Chair's relevance determination, and the Hearing Chair or Hearing Panel may choose to rephrase suggested questions in their own words. After the Party suggests questions to the Hearing Chair, the Hearing Chair will determine whether the question will be permitted, disallowed, or rephrased. The Hearing Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Hearing Chair may explore arguments regarding relevance with the Party and their advisors, if the Hearing Chair so chooses. The Hearing Chair will then state their decision and the rationale to exclude any question as not relevant.
5. **Refusal to Submit to Questioning or Attend Hearing-** The Hearing Panel may consider all evidence it deems relevant and may rely on any relevant statement made without respect to a person's attendance at the hearing or response to questions.

Additional Statements.

[Applicable to Both Student Respondent Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

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 Hearing Chair, that describes how the incident has affected them or why there are mitigating factors. The statement(s) is reviewed by the Hearing Panel 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 Hearing Panel, a copy will be provided to both Parties with the decision letter.

Deliberation, Decision-making, and Standard of Proof.

[Applicable to Both Student Respondent Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

After closing statements from the Parties, the Hearing Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the Policy violation(s) in question based on the standard of evidence. A simple majority vote is required to determine the finding. The hearing panel will make findings of fact and determinations using a preponderance of evidence standard. The panel 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 panel will consider the additional statements and the Respondent's previous conduct history in determining the appropriate sanction. Drug or alcohol use by the Respondent is not a defense to a charge of Sexual and Gender-based Misconduct and will not be considered a mitigating factor in assessing an appropriate sanction.

Sanctions.

[Applicable to Both Student Respondent Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

Violations of the Sexual and Gender-Based Misconduct Policy are serious, and the most serious offenses are likely to result in suspension or expulsion, where warranted. Given the seriousness of these violations, the University reserves the right to notify parents/guardians regarding the sanctions and outcomes of Policy violations.

Factors the Hearing Panel may consider when determining sanctions and responsive actions include, but are not limited to:

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

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

- o Residence hall probation
- o Disciplinary probation
- o Deferred suspension from the residence halls
- o Deferred suspension from the University
- o Suspension from the residence halls
- o Suspension from the University
- o Expulsion
- Additional sanctions
 - o Alcohol and drug screening/education/treatment
 - o Athletics department notification
 - o Civility hours
 - o Continuation/modification of supportive measures
 - o Core advisor notification
 - o Educational project
 - o Fine
 - o Loss of room selection privileges
 - o Mentoring with an administrator
 - o Periodic drug testing
 - o Postponement of activity participation and conferring of honors and degrees
 - o Reflection with Campus Ministry or a Jesuit
 - o Relocation to another residence
 - o Removal from employment positions
 - o Restitution
 - o Restorative practices referral
 - o Restricted access or privileges
 - o Restricted contact
 - o Senior week restrictions
 - o Social restrictions
 - o Student development assessment and evaluation
 - o Written reprimand

Notice of Outcome.

[Applicable to Both Student Respondent Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

The Complainant and Respondent will be informed simultaneously, or without significant time delay between notifications, in writing of the outcome of the hearing normally within ten (10) University business days after the conclusion of the hearing. Both Parties will receive written notice of any sanctions imposed on the Respondent for violation of this Policy (when the University is permitted to share pursuant to federal or state law). The written determination shall include the following:

- identification of the allegations allegedly constituting sexual harassment; a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the University's conduct code to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or

activity will be provided by the University to the Complainant; and procedures and permissible bases for the Complainant and Respondent to appeal.

The written outcome notification may be in person, in a virtual meeting, or emailed to the Parties' University-issued or other approved email account. Once emailed, and/or received in person, the outcome notification is presumptively delivered.

Appeals.

[Applicable to Student Respondent Both Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

Each Party may appeal (1) the dismissal determination of a Formal Complaint or any included allegations and/or (2) a determination regarding responsibility and/or the sanction under either the Title IX Formal Resolution Process or the General Sexual Misconduct Formal Resolution Process. Appeals based on the dismissal determination of a Formal Complaint, or any included allegations will follow the process outlined in section Dismissal of a Formal Complaint (Mandatory and Discretionary). In cases where the Respondent is found not responsible for violation of this Policy after a hearing conducted through the Title IX Formal Resolution or General Sexual Misconduct Formal Resolution, the appeal process described in this section will still apply.

The submission of the appeal means that the sanctions are left pending until the Appeal Panel Chair 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 for Student Respondents* procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within one (1) business days of implementation.

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. In cases where appeals are submitted by both Parties, both appeals will be considered together by the same appellate body. If a Party does not appeal the decision within this period, they have waived a right to appeal. An appeal must be based upon one or more of the following grounds:

- The Party alleges that there were procedural irregularities that affected the outcome of the matter;
- The Party alleges new evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome of the matter;
- The Party alleges the Title IX Coordinator or Deputies, Investigators, or Hearing Panel had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- The Party alleges that the sanctions imposed are grossly disproportionate to the findings of responsibility.

The Title IX Coordinator will forward the appeal to the Appeal Panel Chair, who the Title IX Coordinator will select from the Complaint Process Pool. The Appeal Panel-Chair will be free from conflict of interest and bias, and have not served as Investigator(s), the Title IX Coordinator, or as Chair or panel member in the original hearing.

The Appeal Panel Chair will determine if the request meets the appeal grounds (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is filed timely. If the appeal request does not provide information that meets the aforementioned grounds, the request will be denied by the Appeal Panel Chair, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the

rationale.

If any of the information in the appeal request meets the aforementioned appeal grounds, then the Appeal Panel Chair will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Hearing Chair. The Appeal Panel Chair will then select two additional trained panel members from the Complaint Process Pool to serve on the Appeal Panel. The panel members will be free from conflict of interest and bias, and have not served as Investigator(s), Title IX Coordinator, or hearing panel members in the original hearing. The University reserves the right to have a modified board hear the appeal when circumstances warrant it.

Additionally, after an appeal request is granted, the Appeal Panel Chair will give notice of the appeal, a copy of the appeal letter, and the opportunity to submit a written response within five days to the other Party.

For appeals based on the Party alleging that the sanctions imposed are grossly disproportionate to the findings of responsibility, the appellate body may only affirm, reduce, or increase the sanctions assigned by the original hearing panel. For appeals based on other grounds, the appellate body that hears the appeal can take the following actions:. Upon remand, if the original hearing panel affirms its prior decisions regarding responsibility and sanctions, the Appeal Hearing Panel will 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's Title IX Coordinator.

Except in cases involving the discovery of new evidence, the appellate body 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 appellate body will first determine if the offered evidence was not known nor reasonably available at the time of the hearing and if it might impact the decision of responsibility or determination of sanction. If the appellate body determines that the evidence was not known nor reasonably available at the time of the hearing and that it might impact the decision of responsibility or determination of sanction, the appellate body 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 Hearing 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 appellate body may require a new hearing with a different panel.

The appellate body's decision will be communicated concurrently in writing to both the Respondent and the Complainant, normally within five University business days of the appeal panel meeting, and include rationale for the decision. The appellate body's decision is final, and no further appeal is permitted by either Party.

Remedies.

[Applicable to Student Respondent Both Title IX Formal Resolution and Student Respondent General Sexual Misconduct Formal Resolution]

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

Employee Respondent Sexual and Gender-Based Misconduct Investigation and Hearing Procedures.

The following sections outline the Formal Resolution Process for complaints involving an employee Respondent under Title IX Formal Resolution Process or the General Sexual Misconduct Formal Resolution Process.

Investigation Procedures.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

This section outlines the process of the investigation for a formal resolution. All investigations will be conducted with fairness, equity, impartiality, and under a reasonably prompt timeframe, generally within 60 business days. The Title IX Coordinator (or designee) will provide regular status updates to the Parties throughout the investigation.

Investigation Appointment.

Following notice to the Parties, the 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.

Investigation Process.

Investigations involve interviews with all available, 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.

Except as noted below, to be considered at the during the hearing or decision-making process, 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.

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

Investigations typically involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose and that they are permitted to attend and shall have the right to be accompanied by no more than two people, including a personal supporter of the Party's choice, an attorney, or an advocate.
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses

- Allowing the submission of questions each Party wishes to have asked of another Party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and Party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File

Prior to the conclusion of the investigation, the Investigator shall prepare a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, including both evidence indicating the alleged behavior occurred or did not occur, and accurately summarizes the investigation and Party and witness interviews. Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator(s) to not be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigation report.

The Complainant and Respondent and their advisor(s) will receive the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination. The Parties may submit a written response to the Title IX Coordinator (or designee) within 10 days. The Parties may elect to waive the full 10 days.

If a written response has been submitted, the Investigator(s) will evaluate the information from the Parties and will incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report. The Investigator(s) should document all rationales for any changes made after the review and comment period and respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report.

The Investigator will share the Final Investigation Report and Directly Related Evidence File with the Title IX Coordinator or designee for their review and feedback. After the Investigator completes the Final Investigation Report, the Title IX Coordinator (or designee) will provide the Final Investigation Report to the Parties, their advisors, and the decision-maker including all evidence- relevant and/or directly related to the complaint- submitted by the Parties and witnesses. After the Title IX Coordinator (or designee) provides the report to the Parties and their advisors, the Parties may submit a written response to the Title IX Coordinator within 10 days. A hearing will be scheduled a before decision-maker at least 10 days following the investigative report being sent by the Title IX Coordinator (or designee).

Employee Respondent Title IX Hearing Process.

The following sections outline the hearing process for complaints involving an employee Respondent subject to a Formal Complaint falling under Title IX. Complaints involving an employee Respondent that fall outside of Title IX jurisdiction will be resolved under the procedures outlined in section titled *Employee Respondent General Sexual Misconduct Formal Resolution Process*.

Provided that the complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties and their advisors, the Title IX Coordinator (or designee) will schedule a hearing before a decision- maker(s). In recognition of the unique nature of Sexual and Gender-based Misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

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 Title IX Coordinator.

Joint Hearings.

In Formal Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly. The hearing will be formatted to most effectively address and consider the Formal Complaints.

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

Witness Participation in the Hearing.

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor.

All witnesses interviewed as part of the investigation will be notified of the date, time, and location of their portion of the hearing typically 5 days prior to the hearing.

If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Decision-maker may reschedule the hearing.

Decision-maker Review and Selection.

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

Those who have served as Investigator(s) will be witnesses in the hearing and therefore may not serve as a the Decision-maker. Those who are serving as Advisors for any Party may not serve as Decision-maker in that matter.

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

Prior to the Decision-maker being selected and the hearing being scheduled, both the Complainant and Respondent will receive the list of potential Decision-makers 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, trained Decision-makers 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 Decision-maker 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 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 Participants.

Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.

The Decision-maker will answer all questions of procedure and will be responsible for maintaining an orderly, fair, impartial, and respectful hearing. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Collateral Misconduct.

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged Policy violations that have occurred in concert with the sexual and gender-based misconduct, even though those collateral allegations may not specifically fall within the Policy.

Disability Accommodations and Other Assistance.

Hearing participants should contact the Decision-maker at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.

Hearing Notice.

Typically at least 5 days prior to the hearing, the Decision-maker will send the Parties information via email:

- The date, time, 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 identity of the Hearing Panel, 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. If the Decision-maker cannot make an objective determination, they must recuse themselves from the proceedings when notified of the identity of the Parties, witnesses, and advisors in advance of the hearing.

Pre-hearing Conference.

The Decision-maker will offer to schedule a pre-hearing conference with each Party and their advisors to familiarize them with the hearing process and to discuss evidence that may be explored during questioning. At least two business days prior to the pre-hearing conference, Parties should submit the questions or topics they wish to ask or discuss at the hearing, so that a Decision-maker can rule on the relevance of the question or topic to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude additional questions- both new and follow-up questions- to be asked at the hearing and does not limit a Party's opportunity for cross examination at the hearing as described below.

At each pre-hearing meeting with a Party and their advisors, the Decision-maker will consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to

be relevant.

Pre-hearing meeting(s) will not be recorded. The Pre-hearing Conference 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. The decision-maker will document and share their rationale for any evidence or question exclusion or inclusion with each Party prior to the hearing to assist in preparation for the hearing.

Hearing Procedures.

All hearings will be conducted in a live hearing format which means typically all Parties and the Decision-maker(s) will be located in separate rooms with technology enabling the Decision-maker(s) and Parties to simultaneously see and hear the Party or the Witness while that person is speaking. However, in certain circumstances, the Decision-maker and Parties may be physically present in the same geographic location, though the Decision-maker retains discretion to determine whether the hearing will occur in via video technology or in person. All hearings are closed to the public. The University shall create an audio recording of the hearing, but all other recordings are prohibited.

Both the Respondent and Complainant have a right to similar and timely access to information that will be used at the hearing. The hearing materials, or instructions for how to view certain materials, will have been included in the Final Investigation Report sent to the Parties by the appropriate Title IX Coordinator (or their designee).

- A. **Evidentiary Considerations at the Hearing-** Any evidence that the Decision-maker(s) determines is relevant may be considered. The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), have proffered a written statement, or answered written questions, unless all Parties and the decision-maker(s) assent to the witness's participation in the hearing. Evidence offered or Witnesses participating for the first time after the Final Investigation Report has been completed will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to consider it as evidence at the hearing. If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing absent the new evidence.

The new Relevant Evidence will be considered at the hearing if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already being considered at the hearing, 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 three (3) business days to review the Relevant Evidence
- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

B. **Advisor Role at Hearing-** The Parties may each have no more than two people, defined as advisors, present throughout the entire Sexual and Gender-based Misconduct process. The advisor may consult privately with the Party they are advising during the hearings, except when such consultations during questioning of the Party they are advising at a hearing are deemed disruptive by the Decision-maker(s), and assist the Party that they are advising with the exercise of any right during the proceedings. The advisor is not allowed to address the Decision-maker(s) during the hearing except for the purpose of cross-examination. Disruptive advisors will be removed from the process, and the process will continue. The Parties should notify the Title IX Coordinator (or designee) as soon as they have identified their advisors, but in any event, at least one University business day in advance of the hearing date if a Party plans to bring advisors. Advisors can request an outline of their role and expectations, including the *Decorum Policy for Sexual and Gender-Based Misconduct Proceedings*, for their participation in the Formal Resolution process.

Only one of the advisors is permitted to conduct cross-examination. The advisor responsible for all cross-examination must be designated by the Party to the Decision-maker prior to beginning cross-examination.

- 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 Overview-** The hearing will begin with the decision-maker(s) reviewing the rights and responsibilities for the Parties, and the Parties, Decision-maker, and other hearing attendees introducing themselves. Next, the Decision-maker will read the charges against the Respondent and ask if they believe they are responsible or not responsible for the charges.
 - b. **Investigator Presentation of Final Investigation Report-** The Investigator(s) will then present a summary of the Final Investigation Report, including a review of facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then the Parties (through their advisors). Neither the Parties nor the decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.
 - e. **Testimony and Questioning-** The Complainant will then have an opportunity to present a brief statement of relevant information and respond to questions from the Decision-maker(s). After the Complainant's statement and questioning from the Decision-maker, the Respondent (through their Advisor) will be permitted to

cross-examine the Complainant consistent with the procedures outlined below. Next, the Respondent will have the opportunity to present a brief statement of relevant information and respond to questions from the Decision-maker(s). After the Respondent's statement and questioning from the Decision-maker, the Complainant (through their Advisor) will be permitted to cross-examine the Respondent consistent with the procedures outlined below. Next, the Decision-maker will call Witnesses who will first be questioned by the Decision-maker before the Complaint and Respondent (through their advisors) will be permitted to cross-examine the Witness. The Decision-maker may recall the Parties and any Witness for clarification.

- f. **Closing statements-** The Respondent and Complainant will each have the opportunity to make a closing statement to the Hearing Panel prior to the conclusion of the hearing.

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

- E. **Refusal to Submit to Questioning and Inferences-** Any Party or Witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on the available Relevant Evidence in making a Final Determination. The Decision-maker may not draw any inference solely from a Party's or witness's absence from the hearing or refusal to answer any or all questions.

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

Employee Respondent General Sexual Misconduct Formal Resolution Process.

The following sections outline the decision-making process for Formal Complaints involving an

employee Respondent that fall outside of Title IX jurisdiction and will be resolved under the *Employee Respondent General Sexual Misconduct Formal Resolution Process*.

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 Title IX Coordinator.

Joint Decisions.

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

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

Decision-maker Review and Selection.

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties and their advisors, the Title IX Coordinator (or designee) will select a Decision-maker. In recognition of the unique nature of Sexual and Gender-based Misconduct cases, the procedures specified in this section supersede any conflicting provisions of any other policies and procedures at the University.

The Decision-maker will not have had any previous involvement with the Formal Complaint including having served as the Title IX Coordinator or investigator.

Prior to the Decision-maker being selected, both the Complainant and Respondent will receive the list of potential Decision-makers 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, trained Decision-makers 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 Decision-maker 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 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.

- The Title IX Coordinator, or designee, 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.

Additional Statements.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

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

Deliberation, Decision-making, and Standard of Proof.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

The decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the Policy violation(s) in question. The 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 the Respondent's previous conduct or discipline history in determining the appropriate sanction. Drug or alcohol use by the Respondent is not a defense to a charge of Sexual and Gender-based Misconduct and will not be considered a mitigating factor in assessing an appropriate sanction.

Sanctions.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

Violations of this Policy are serious, and the most serious offenses are likely to result in termination/dismissal from the University, where warranted. The Decision-maker will consider the nature and severity of the violation and the Respondent's employment record. Disciplinary action may consist of the following:

- mandatory assessment and compliance with treatment recommendations;
- prohibition of the Respondent from participating in grading, honors, recommendations, reappointment and promotion decisions, or other evaluations of the Complainant;
- written warning, and a copy of the complaint and its disposition placed in the Respondent's personnel file;
- restrictions on the Respondent's access to University resources, such as merit pay, or other

salary increases for a specific period;

- continuation/modification of supportive measures;
- disciplinary probation;
- suspension;
- termination/dismissal from the University

Notice of Outcome.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

The Complainant and Respondent will be informed simultaneously, or without significant time delay between notifications, in writing of the outcome, also known as the result, normally within ten (10) University business days after the conclusion of the hearing or Decision-making process. Both Parties will receive written notice of any sanctions imposed on the Respondent for violation of this Policy (when the University is permitted to share pursuant to federal or state law). The written determination shall include the following:

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

Appeals.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

Each Party may appeal (1) the dismissal determination of a Formal Complaint or any included allegations and/or (2) a determination regarding responsibility and/or the sanction under the Sexual and Gender-based Misconduct Formal Resolution Process. Appeals based on the dismissal determination of a Formal Complaint, or any included allegations will follow the process outlined in section *Dismissal of a Formal Complaint (Mandatory and Discretionary)*. In cases where the Respondent is found not responsible for violation of Prohibited Conduct after a hearing or Decision-making process conducted through the Employee Respondent Title IX Formal Resolution or Employee Respondent General Sexual Misconduct Formal Resolution, the appeal process described in this section will still apply.

The submission of the appeal means that the sanctions are left pending until the Appeal Panel Chair 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 Administrative

Leave for Employee Respondents procedures (detailed above) will be utilized.

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. If a Party does not appeal the decision within this period, they have waived a right to appeal. In cases where appeals are submitted by both Parties, both appeals will be considered together by the same appeal decision-maker. An appeal must be based up on one or more of the following grounds:

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

The Title IX Coordinator will forward the appeal to the Appeal Decision-maker, who the Title IX Coordinator will select from the Complaint Process Pool. The Appeal Decision-maker will be free from conflict of interest and bias, and have not served as Investigator(s), the Title IX Coordinator, or as Decision-makers in the original hearing or Decision-making process.

The Appeal Decision-maker will determine if the request meets the appeal grounds (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is filed timely. If the appeal request does not provide information that meets the grounds in the Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

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

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

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 Decision-maker. For appeals based on other grounds, the Appeal Decision-maker 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 affirm or change the sanctions (sanction may be reduced or increased); or remand the matter to the original Decision-maker for further consideration. Upon remand, if the original Decision-maker 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 Decision-maker(s) reverses or modifies its original

decisions regarding responsibility and/or sanctions, each Party shall have a right to submit an appeal to the University's Title IX Coordinator.

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 original Decision-maker. 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 original determination regarding responsibility 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 might impact the decision of responsibility or determination of sanction, the Appeal Decision-maker will remand the case to the original Decision-maker for review. Upon review, the original Decision-maker will issue a new decision letter taking into account the newly discovered evidence. All decisions made by the Appeal Decision-maker will be made based on the considerations as described above without a hearing. In cases where the appeal is based in whole or in part on a claim of conflict of interest or bias, the Appeal Decision-maker may require a new hearing or Decision-making process with a different Decision-maker.

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

Remedies.

[Applicable to Employee Respondent Title IX Formal Resolution and Employee Respondent General Sexual Misconduct Formal Resolution]

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

Revision of this Policy

This Policy succeeds previous policies addressing sex discrimination, sexual harassment, Sexual and Gender-based Misconduct, and/or retaliation. 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 9/3/2025.

*BASED ON THE ATIXA 2025 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.
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