

**ROBERT MORRIS UNIVERSITY**  
**EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION**  
**POLICY FOR ALL FACULTY, STUDENTS, AND EMPLOYEES**

**Table of Contents**

1. Purpose	5
2. Notice of Nondiscrimination	5
3. University Contacts	6
4. External Contact Information	7
5. Required Reporting and Confidential Employees	7
A. Confidential Employees	8
6. Disability-based Grievances and Complaints	9
7. Scope	10
8. Jurisdiction	10
9. Supportive Measures	11
10. Online Harassment and Misconduct	13
11. Inclusion Related to Gender Identity/Expression	13
12. Prohibited Conduct	14
A. Discrimination	14
B. Discriminatory Harassment	15
C. Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)	15
D. Other Prohibited Conduct	19
E. Sanction Ranges	20
F. Consent, Force, and Incapacitation	20
G. Expectations with Respect to Consensual Relationships (See Appendix C)	23
13. Standard of Proof	23
14. Reports/Complaints of Discrimination, Harassment, and/or Retaliation	23
15. Time Limits on Reporting	24
16. False Allegations and Evidence	24
17. Confidentiality/Privacy	24
18. Emergency Removal/Interim Actions/Leaves	25
19. Federal Timely Warning Obligations	25

20.	Amnesty	25
	A. Students	26
	B. Employees	26
21.	Independence and Conflicts of Interest	26
22.	Revision of this Policy	27
1.	Overview	28
2.	Notice/Complaint	28
3.	Collateral Misconduct	28
4.	Initial Evaluation	28
5.	Dismissal	31
6.	Appeal of Dismissal	31
7.	Emergency Removal/Interim Suspension of a Student Accused of Sex Discrimination and/or Sex-based Harassment	33
8.	Placing an Employee on Leave	34
9.	Counter-Complaints	34
10.	Advisors in the Resolution Process	34
	A. Who Can Serve as an Advisor?	34
	B. Advisor’s Role in the Resolution Process	35
	C. Records Shared with Advisors	35
	D. Advisor Expectations	36
	E. Advisor Policy Violations	36
11.	Resolution Options Overview	36
	A. Informal Resolution	37
	(1) Supportive Resolution	38
	(2) Educational Conversation	39
	(3) Accepted Responsibility	39
	(4) Alternative Resolution	40
	B. Hearing Resolution Process (see Section 22 below)	41
12.	Resolution Process Pool	41
	A. Pool Member Roles	41
	B. Pool Member Appointment	42
13.	Notice of Investigation and Allegations (NOIA)	42

14.	Resolution Timeline	43
15.	Ensuring Impartiality	44
16.	Investigator Appointment	44
17.	Witness Role and Participation in the Investigation	44
18.	Documentation of Interviews	45
19.	Evidentiary Considerations	45
20.	Respondent Admits Responsibility	46
21.	Investigation	46
22.	Hearing Resolution Process	47
A.	Live Hearing Requirements	47
B.	Hearing Notice	49
C.	Witness Participation	50
D.	Pre-Hearing Meetings	51
E.	Hearing Procedures	52
(1)	Evidentiary Considerations	52
(2)	Collateral Misconduct	53
(3)	Joint Hearings	53
(4)	Introductions and Hearing Procedure Explanation	53
(5)	Investigator Presentation of Final Investigation Report	53
(6)	Testimony and Questioning	53
(7)	Refusal to Submit to Questioning and Inferences	54
(8)	Hearing Recordings	55
F.	Deliberation and Determination	55
23.	Sanctions	56
A.	Student Sanctions	56
B.	Student Group and Organization Sanctions	57
C.	Employee Sanctions/Responsive/Corrective Actions	58
24.	Notice of Outcome	59
25.	Withdrawal or Resignation Before Complaint Resolution	59
A.	Students	59
B.	Employees	60
26.	Appeal of the Determination	60

A.	Appeal Grounds	60
B.	Request for Appeal	61
C.	Appeal Determination Process	62
D.	Appeal Outcome	62
E.	Sanction Status During the Appeal	63
27.	Long-Term Remedies/Other Actions	63
28.	Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms	64
29.	Recordkeeping	65
30.	Accommodations and Support During the Resolution Process	65
31.	Revision of these Procedures	66
	APPENDIX A: DEFINITIONS	67
	APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS	71
	APPENDIX C: EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS	74
	APPENDIX D: PREGNANCY AND RELATED CONDITIONS AND PARENTING STUDENT POLICY	75
32.	Non-Discrimination Statement	75
33.	Definitions	75
34.	Information Sharing Requirements	75
35.	Reasonable Modifications for Students	76
36.	Certification to Participate	77
37.	Lactation Space Access	78
38.	Leaves of Absence	78
A.	Students	78
B.	Employees	79
39.	Policy Dissemination and Training	79

**ROBERT MORRIS UNIVERSITY EQUAL OPPORTUNITY, HARASSMENT, AND  
NONDISCRIMINATION POLICY FOR ALL FACULTY, STUDENTS, AND EMPLOYEES (the “Policy”)**

**PART I - Policy**

**1. Purpose**

Robert Morris University (the “University”) is committed to providing an educational and employment environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, the University has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of protected characteristic discrimination, harassment or allegations of retaliation.

Capitalized terms are defined directly in the Policy or in Appendix A.

**2. Notice of Nondiscrimination**

The University seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in private postsecondary educational institutions.

The University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- Age (40 years and over in the employment context)
- Color
- Disability (physical or mental)
- Ethnicity
- Gender identity
- Genetic information (including family medical history)
- Marital status
- National origin (including ancestry)
- Pregnancy or related conditions
- Race
- Religion
- Sex
- Sexual orientation

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of the University's community, guest, or visitor on the basis of that person's actual or perceived protected characteristic(s), is in violation of this Policy.

### **3. University Contacts**

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

#### ***For all student discrimination and harassment allegations:***

Nelle Stahura  
Director of Equity/Title IX Coordinator  
Office of Student Equity & Title IX  
Rockwell School of Business, 125  
6001 University Blvd  
412-397-4474  
stahura@rmu.edu  
<https://www.rmu.edu/about/titleix>

#### ***For all employee discrimination and harassment allegations:***

Human Resources  
Revere Center  
6001 University Blvd  
412-3976270  
[humanresources@rmu.edu](mailto:humanresources@rmu.edu)

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

The University recognizes that allegations under this Policy may include multiple forms of discrimination and harassment as well as violations of other University policies; may involve

various combinations of students, employees, and other members of the University community; and may require the simultaneous attention of multiple University departments. Accordingly, all University departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable University policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

#### **4. External Contact Information**

Concerns about the University's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

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

Office for Civil Rights (OCR)  
Philadelphia Office  
The Wanamaker Building, 100 Penn Square East, Suite 515  
Philadelphia, PA, 19107-3323  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

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

EEOC Regional Office  
1000 Liberty Avenue, Suite 1112  
Pittsburgh, PA 15222

#### **5. Required Reporting and Confidential Employees**

All University faculty, employees (including student-employees when acting in their capacity as a student-employee) and volunteers, other than those deemed Confidential Employees, are Required Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, retaliation and/or Other Prohibited Conduct (as defined in Section 12(D)) to appropriate officials immediately, although there are some limited

exceptions. Supportive measures may be offered as the result of such disclosures without formal University action.

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

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

The following sections describe the University's reporting options for a Complainant or third party (including parents/guardians when appropriate):

#### **A. Confidential Employees**

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

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

#### Confidential Employees

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff (including athletic trainers acting in their capacity as athletic trainers)
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination

Institutional counselors (for students) and the Employee Assistance Program (for employees) are available to help free of charge and may be consulted on an emergency basis. The University Counseling Center is available during normal business hours and

the EAP is available 24/7. In addition, University police are available to both students and employees on an emergency basis and can be reached at (412) 397-2424.

Employees who have confidentiality obligations as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act statistical reporting purposes unless they believe it would be harmful to their client, patient, or parishioner.

Failure of a Required Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of University Policy and can be subject to disciplinary action for failure to comply/failure to report.

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

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

- Licensed professional counselors and other medical providers
  - Resolve Crisis Services: 1-888-796-8226
  - Trans Lifeline: 1-877-565-8860
  - Trevor Lifeline (LGBTQIA+): 1-866-488-7386
- Local rape crisis counselors
  - Pittsburgh Action Against Rape (PAAR): 1-866-363-7273
  - Center for Victims: 1-866-644-2882
- Domestic violence resources
  - Women's Center & Shelter of Greater Pittsburgh: 412-687-8005
- Other local or state assistance agencies
- Clergy/Chaplains
- Non-University Attorneys

## **6. Disability-based Grievances and Complaints**

For students, complaints related to disability status and/or provision of accommodations are addressed using the procedures in the Student Accessibility Services Policy & Procedures, found here: <https://www.rmu.edu/links/sas>.

Employees with complaints related to disability status and/or provision of accommodations should contact Human Resources at [humanresources@rmu.edu](mailto:humanresources@rmu.edu).

Complaints of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under the procedures outlined in this policy.

## **7. Scope**

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the University's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply.

## **8. Jurisdiction**

This Policy applies to the University's education programs and activities (defined as including locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the University has disciplinary authority, and to misconduct occurring within any building owned or controlled by a University-recognized student organization.

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

A substantial University interest includes:

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

For disciplinary action to be issued under this Policy, the Respondent must be a University student or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the University community, the Director of Equity/Title IX Coordinator may 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 alleging criminal conduct.

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

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

Similarly, the Director of Equity/Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Director of Equity/Title IX Coordinator if brought to their attention.

## **9. Supportive Measures**

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter discrimination, harassment, and/or retaliation.

As applicable, the Director of Equity/Title IX Coordinator will promptly make supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the University will inform the Complainant, that they may file a Complaint with the University either at that time or in the future. The Director of Equity/Title IX Coordinator will work with a party to ensure that

their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact orders) between the parties
- Reasonable academic support, extensions of deadlines, or other course/program-related adjustments that do not result in a fundamental alteration of a course or program
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Reasonable class schedule modifications, withdrawals, or leaves of absence that do not result in a fundamental alteration of a course or program
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Administrator

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.

The Parties are provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Director of Equity/Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The University will also provide the Parties

with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. The University typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Director of Equity/Title IX Coordinator.

#### **10. Online Harassment and Misconduct**

This Policy is 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 when they involve the use of University networks, technology, or equipment.

Although the University may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the University, it will attempt to address and mitigate the effects. For Sex discrimination or Sex-based Harassment, these means may include use of the Resolution Process outlined herein to address off-campus conduct whose effects contribute to limiting or denying a person access to the University's education program or activity.

#### **11. Inclusion Related to Gender Identity/Expression**

The University strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by the University. If a member of the University community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of gender identity or expression, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, services

- Encouraging all students and employees to respect the pronoun usage and identities of all members of the University community

## **12. Prohibited Conduct**

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

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under 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.

Violation of any other University policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

### **A. Discrimination**

Discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

#### **1) Disparate Treatment Discrimination:**

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:

- Excludes a person from participation in;
- Denies the person benefits of; or
- Otherwise adversely affects a term or condition of a person’s participation in a University program or activity.

**2) Disparate Impact Discrimination:**

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

**B. Discriminatory Harassment**

- unwelcome conduct on the basis of actual or perceived protected characteristic(s), that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person’s ability to participate in or benefit from the University’s education program or activity

**C. Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)**

**Sex-based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,<sup>1</sup> including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

**1) Quid Pro Quo:**

- an employee, agent, or other person authorized by the University,
- to provide an aid, benefit, or service under the University’s education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person’s participation in unwelcome sexual conduct.

---

<sup>1</sup> Throughout this Policy, “on the basis of sex” means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

2) **Hostile Environment Harassment:**

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the University's education program or activity

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 based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be addressed through respectful conversation, remedial actions, education, other Informal Resolution mechanisms, and/or through other University policy(ies).

3) **Sexual Assault:**<sup>2</sup>

a. **Rape:**

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or use of an object, or
- oral penetration by a sex organ,
- without the consent of the Complainant.

b. **Fondling:**

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- by the Respondent for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

c. **Incest:**

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

d. **Statutory Rape:**

- Sexual intercourse,
- with a person who is under the statutory age of consent as provided by applicable law.

---

<sup>2</sup> This would include having another person touch you sexually, forcibly, and/or without their consent.

**4) Dating Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. 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—
    - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - b) Dating violence does not include acts covered under the definition of domestic violence.

**5) Domestic Violence**,<sup>3</sup> defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of PA, or
- g. by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of PA.

**6) Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
  - i. would cause a reasonable person to fear for the person’s safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

---

<sup>3</sup> To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

## **Sexual Misconduct**

### **7) Sexual Exploitation:**

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

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

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person’s sexual orientation, gender identity, or gender expression
- Taking or sharing of 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)
- 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)

#### **D. Other Prohibited Conduct**

##### **1) Retaliation:**

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by the University, a student, employee, or a person authorized by the University to provide aid, benefit, or service under the University's education program or activity,
- for the purpose of interfering with any right or privilege secured by law or this Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under this Policy, including an Informal Resolution process, or in any other appropriate steps taken by the University to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

##### **2) Unauthorized Disclosure:<sup>4</sup>**

---

<sup>4</sup> Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the University; or
- Publicly disclosing institutional work product created pursuant to this Policy that contains personally identifiable information without authorization or consent.

### 3) **Failure to Comply/Process Interference**

- Intentional failure to comply with the reasonable directives of the Director of Equity/Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including but not limited to:
  - Destruction of or concealing of evidence
  - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
  - Intimidating or bribing a witness or party

## **E. Sanction Ranges**

Sanctions for those found to have engaged in Prohibited Conduct under this policy may range from warning to expulsion (in the case of students) or termination (in the case of employees).

## **F. Consent, Force, and Incapacitation**

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

### 1) **Consent**

Consent is defined as:

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

- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

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

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

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the University to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the

alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.

## **2) Force**

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

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

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

## **3) Incapacitation**

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

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

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

## **G. Expectations with Respect to Consensual Relationships [\(See Appendix C\)](#)**

### **13. Standard of Proof**

The University uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the University will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

### **14. Reports/Complaints of Discrimination, Harassment, and/or Retaliation**

A Report provides notice to the University of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the Director of Equity/Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to, the Director of Equity/Title IX Coordinator. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Director of Equity/Title IX Coordinator; or
- 2) File a report using the University's incident reporting system: [https://cm.maxient.com/reportingform.php?RobertMorrisUniv=&layout\\_id=0](https://cm.maxient.com/reportingform.php?RobertMorrisUniv=&layout_id=0). Reports can be made anonymously.

Reporting carries no obligation to initiate a Complaint, and in most situations, the University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate a

resolution process. If a Complainant does not wish to file a Complaint, the University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the University to discuss and/or provide supportive measures, in most circumstances.

### **15. Time Limits on Reporting**

There is no time limitation on providing Notice/Complaints to the Director of Equity/Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

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

With respect to Title IX allegations, after a report has been made and the Director of Equity/Title IX Coordinator has contacted the Complainant, the Complainant shall decide within a reasonable amount of time whether to file a formal Complaint. Absent extenuating circumstances, thirty calendar days shall be deemed reasonable.

### **16. False Allegations and Evidence**

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

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate University policies.

### **17. Confidentiality/Privacy**

The University makes every effort to preserve the Parties' privacy. The University will not share the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted

by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.<sup>5,6</sup>

### Unauthorized Disclosure of Information

Parties and Advisors are prohibited from disclosing information obtained by the University through the Resolution Process, to the extent that information is the work product of the University (meaning it has been produced, compiled, or written by the University for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of this Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

### **18. Emergency Removal/Interim Actions/Leaves**

The University can act to remove a student Respondent from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Director of Equity/Title IX Coordinator and may be done in conjunction with the CARE Team using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

### **19. Federal Timely Warning Obligations**

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

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

### **20. Amnesty**

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to University officials or participate in resolution processes because they fear that they themselves may be in

---

<sup>5</sup> 20 U.S.C. 1232g

<sup>6</sup> 34 C.F.R. § 99

violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

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

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

**A. Students**

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

**B. Employees**

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. The University may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

**21. Independence and Conflicts of Interest**

The Director of Equity/Title IX Coordinator acts with independence and authority, free from bias and conflicts of interest. The Director of Equity/Title IX Coordinator oversees all resolutions for students under this Policy and all resolutions for employees who are alleged to have committed Sex Discrimination and/or Sex-based Harassment under this Policy. Human Resources oversees all other resolutions for employees under this Policy. The members of the Resolution Pool are vetted to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Director of Equity/Title IX Coordinator or Human Resources members (other than the Vice President of People and Culture), please contact the Vice President of People and Culture. Alternatively, you may file a confidential report with the University by calling EthicsPoint toll-free at 1-800-963-5593. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Director of Equity/Title IX Coordinator.

## **22. Revision of this Policy**

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Director of Equity/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.

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

This Policy is effective 08-01-2024.

**PART II - RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY (Hereinafter the “Resolution Process”)**

**1. Overview**

The University will act on any Notice, Complaint, or Knowledge of a potential violation of the Policy that the Director of Equity/Title IX Coordinator or any other Required Reporter receives by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristics, harassment, retaliation, or Other Prohibited Conduct involving students, employees, or third parties.

**2. Notice/Complaint**

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

**3. Collateral Misconduct**

Collateral misconduct is defined to include 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 allegations may be charged along with potential violations of this Policy, to be resolved jointly under these Procedures. In such circumstances, the Director of Equity/Title IX Coordinator may consult with University officials who typically oversee such conduct (e.g., Human Resources, Student Conduct, Academic Affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Director of Equity/Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by this Policy will typically be addressed separately through other applicable University policy(ies).

**4. Initial Evaluation**

The Director of Equity/Title IX Coordinator conducts an initial evaluation typically within ten (10) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.<sup>7</sup> The initial evaluation typically includes:

---

<sup>7</sup> If circumstances require, the Vice President of People and Culture or Director of Equity/Title IX Coordinator will designate another person to oversee the Resolution Process should an allegation be made about the Director of

- Assessing whether the reported conduct may reasonably constitute a violation of this Policy.
  - If the conduct may not reasonably constitute a violation of this 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 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 University office for resolution.
- Offering and coordinating supportive measures for the Complainant, as applicable.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

***Helping a Complainant to Understand Resolution Options***

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Director of Equity/Title IX Coordinator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or
  - Informal Resolution, or
  - the Resolution Process described below.

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

If the Complainant elects for the Resolution Process below, and the Director of Equity/Title IX Coordinator has determined the Policy applies and that the University has jurisdiction, they will

---

Equity/Title IX Coordinator or the Director of Equity/Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

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

If the Complainant initially indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Director of Equity/Title IX Coordinator), though the Complainant can elect to initiate one later, if desired, within a reasonable amount of time, in accordance with Part I, Section 15 of this Policy.

### ***Director of Equity/Title IX Coordinator Authority to Initiate a Complaint***

If the Complainant does not wish to file a Complaint, the Director of Equity/Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures as appropriate and determine whether to initiate a Complaint themselves. To make this determination, the Director of Equity/Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the University cannot ensure equal access without initiating a Complaint. The Director of Equity/Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

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

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

When the Director of Equity/Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

## **5. Dismissal**

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

- 1) The University is unable to identify the Respondent after taking reasonable steps to do so.
- 2) The University no longer enrolls or employs the Respondent.
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Director of Equity/Title IX Coordinator declines to initiate a Complaint.
- 4) The University determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven.

A Decision-maker can recommend dismissal to the Director of Equity/Title IX Coordinator if they believe the grounds are met.

Upon any dismissal, the University will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the University will also notify the Respondent of the dismissal.

## **6. Appeal of Dismissal**

The Complainant may appeal a dismissal of their Complaint, except for when the dismissal is the result of their voluntary withdrawal of the Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within seven (7) business days of the notification of the dismissal.

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

Throughout the dismissal appeal process, the University will:

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

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.
- 3) The Director of Equity/Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) The dismissal was erroneously granted or denied.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Director of Equity/Title IX Coordinator will share the petition with all other Parties and provide seven (7) business days for other Parties to respond to the request. At the conclusion of the response period, the Director of Equity/Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties and/or the Director of Equity/Title IX Coordinator to the Dismissal Appeal Officer for consideration.

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

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

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has ten (10) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Director of Equity/Title IX Coordinator, and the Parties will be notified of any extension.

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

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

**7. Emergency Removal/Interim Suspension of a Student Accused of Sex Discrimination and/or Sex-based Harassment**

On an emergency basis, the University may remove a student accused of Sex Discrimination and/or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, appropriate University administrators will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex Discrimination and/or Sex-based Harassment justifies such action.

When an emergency removal or interim suspension is imposed pursuant to this Policy for students accused of Sex Discrimination and/or Sex-based Harassment, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Director of Equity/Title IX Coordinator, along with any other appropriate University administrators, will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

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

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

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Director of Equity/Title IX

Coordinator or another University administrator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

Students accused of other forms of discrimination or violations of this Policy are subject to emergency removal or interim suspension, which can be imposed for safety reasons or other substantial University interests.

## **8. Placing an Employee on Leave**

The University may place a Respondent who is an employee on administrative leave during the pendency of the Resolution Process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

## **9. Counter-Complaints**

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

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

## **10. Advisors in the Resolution Process**

### **A. Who Can Serve as an Advisor?**

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>8</sup>

---

<sup>8</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. 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 Decision-maker(s).

The Director of Equity/Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses.

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

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Director of Equity/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, and a release for the new Advisor must be submitted.

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

Advisors appointed by the institution cannot be Confidential Employees. The University fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors under these specific circumstances. Witnesses are not permitted to have union representation or Advisors in Resolution Process interviews or meetings.

## **B. Advisor's Role in the Resolution Process**

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 or speak on behalf of their advisee unless given specific permission to do so.

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

## **C. 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 the evidence.

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

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The University may decline to share materials with any Advisor who has not executed the NDA. The University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

#### **D. Advisor Expectations**

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

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

#### **E. Advisor Policy Violations**

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

### **11. Resolution Options Overview**

This Resolution Process, consisting of Informal Resolution or Hearing Resolution, is the University's chosen approach to addressing all violations of this Policy.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with University policy.

### **A. Informal Resolution**

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Director of Equity/Title IX Coordinator at any time prior to a final determination, or the Director of Equity/Title IX Coordinator may offer the option to the Parties, in writing. 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.

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

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

The University offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Director of Equity/Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Director of Equity/Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can

accompany the Complainant in their desire to confront the conduct.

- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating this Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and the University are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

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

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

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

#### Categories of Informal Resolution

##### **(1) Supportive Resolution**

The Director of Equity/Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the University's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. The Director of Equity/Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Director of Equity/Title IX Coordinator does not initiate a Complaint.

## **(2) Educational Conversation**

The Complainant(s) may request that the Director of Equity/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 Director of Equity/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.

## **(3) Accepted Responsibility<sup>9</sup>**

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

If Informal Resolution is available, the Director of Equity/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 Director of Equity/Title IX Coordinator implements the accepted finding that the Respondent is in violation of University Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

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

---

<sup>9</sup> In [Section 20](#) below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 20, in contrast, is unilateral. Neither the Complainant nor the Director of Equity/Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Decision-maker, if they choose to. No Complainant approval is sought or needed. Under Section 20, the outcome involves sanctioning imposed by University, rather than an agreement to self-sanction, as outlined in this section.

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.

#### **(4) Alternative Resolution**

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

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

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

The Director of Equity/Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is

acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

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

The Director of Equity/Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

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

## **B. Hearing Resolution Process (see [Section 22](#) below)**

### **12. Resolution Process Pool**

The Resolution Process relies on a pool of administrators ("the Pool") to carry out the process.<sup>10</sup>

#### **A. Pool Member Roles**

Members of the Pool may be University employees or third-parties, are trained annually, and can serve in the following roles, at the discretion of the Director of Equity/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

---

<sup>10</sup> External, trained third-party neutral professionals may also be used to serve in Resolution Pool roles. This does not preclude the University from having all members of the Pool go through an application and/or interview/selection process.

- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

**B. Pool Member Appointment**

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

**13. Notice of Investigation and Allegations (NOIA)**

Prior to an investigation, the Director of Equity/Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify applicable University administrators of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited

- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share the University work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the University’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Details on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to relevant VAWA information
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process, if applicable

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address(es) as indicated in official University records, or emailed to the Parties’ University-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

**14. Resolution Timeline**

The University will make a good faith effort to complete the Resolution Process within 60-90 business days, including any appeals, which the Director of Equity/Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

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

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

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the

absence of Parties and/or witnesses, and/or health conditions. The University will promptly resume its Resolution Process as soon as feasible. During such a delay, the University will implement and maintain supportive measures for the Parties as deemed appropriate.

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

### **15. Ensuring Impartiality**

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

The Director of Equity/Title IX Coordinator will vet the assigned 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. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Director of Equity/Title IX Coordinator and/or other appropriate University administrator(s) will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director of Equity/Title IX Coordinator, concerns should be raised with the Vice President of People and Culture.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

### **16. Investigator Appointment**

Once an investigation is initiated, the Director of Equity/Title IX Coordinator appoints an Investigator(s) to conduct it. The Investigator may be the Director of Equity/Title IX Coordinator, or any other properly trained Investigator, whether internal or external to the University's community.

### **17. Witness Role and Participation in the Investigation**

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

Interviews may be conducted in person, via online video platforms (e.g., GoogleMeet, Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone.

Parties and witnesses may provide written statements in addition to 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.

### **18. Documentation of Interviews**

It is standard practice for Investigators to take notes during all interviews pertaining to the Resolution Process. The Parties may review copies of the Investigator's summary of all interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

### **19. Evidentiary Considerations**

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

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

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

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

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in

determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

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

## **20. Respondent Admits Responsibility**

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This election waives the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

## **21. Investigation**

All investigations involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the Investigator's 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 Investigator's summary will be deemed to have been waived, and no changes will be permitted.

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

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

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Conduct a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.

- Prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a Party is expected, provide that Party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed Party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each Party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another Party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Director of Equity/Title IX Coordinator and/or legal counsel for their review and feedback.

## **22. Hearing Resolution Process**

### **A. Live Hearing Requirements**

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are

considered fair and equitable. Alternative arrangements may also be made at the Director of Equity/Title IX Coordinator's discretion.

- The Parties may make a request to the Director of Equity/Title IX Coordinator that the hearing occur in person or via video technology, but they must do so at least seven (7) business days prior to the hearing. The Director of Equity/Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
- All hearings will be recorded, and Parties may request a copy of the recording from the Director of Equity/Title IX Coordinator following the live hearing.
- No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker(s), 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.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that the University appoint a trained Advisor for them. Appointed Advisors are not always attorneys.
  - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Director of Equity/Title IX Coordinator, with each party being provided the same opportunity.
  - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with this Policy. Unauthorized recording with these devices is prohibited.
  - During the hearing, all questions that a Party wishes to ask must be posed by the Advisor, not the Parties.
  - If the Party does not have an Advisor, the Director of Equity/Title IX Coordinator will provide the Party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Director of Equity/Title IX Coordinator that the Decision-maker will review during any sanction determination.
  - Upon receipt of an impact and/or mitigation statement, the Director of Equity/Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
  - The Director of Equity/Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Director of Equity/Title IX Coordinator

shares the impact statements with the Decision-maker, they will also be shared with the Parties.

- **Disability Accommodations and Other Assistance.** Parties should contact the Director of Equity/Title IX Coordinator at least five (5) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Director of Equity/Title IX Coordinator about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Director of Equity/Title IX Coordinator within five (5) business days of receiving the hearing notice.
  - The Director of Equity/Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Director of Equity/Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.<sup>11</sup>

## B. Hearing Notice

The Director of Equity/Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least ten (10)

---

<sup>11</sup> Hard-copy materials may be provided upon request to the Director of Equity/Title IX Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

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

### **C. Witness Participation**

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

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

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

The Director of Equity/Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least ten (10) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

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

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and

- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

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

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

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

#### **D. Pre-Hearing Meetings**

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

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

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

## **E. Hearing Procedures**

### **(1) Evidentiary Considerations**

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

The new relevant evidence will be admitted to the record if:

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

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

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

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

## **(2) Collateral Misconduct**

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

## **(3) Joint Hearings**

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

However, the Director of Equity/Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or 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 Complaint with respect to each alleged Policy violation.

## **(4) Introductions and Hearing Procedure Explanation**

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

## **(5) Investigator Presentation of Final Investigation Report**

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

## **(6) Testimony and Questioning**

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

All questions must be directed toward and asked through the Decision-maker and are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Vice President of People and Culture, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

## **(7) Refusal to Submit to Questioning and Inferences**

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

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

### **(8) Hearing Recordings**

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

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

### **F. Deliberation and Determination**

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

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Director of Equity/Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Director of Equity/Title IX Coordinator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is typically submitted to the Director of Equity/Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Director of Equity/Title IX Coordinator grants an extension. The Director of Equity/Title IX Coordinator will notify the Parties of any extension.

## 23. Sanctions

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

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

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

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

### A. Student Sanctions

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

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars (including, but not limited to, participation in athletics and club sports), study abroad, or holding leadership roles in student organizations.

- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the institution, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Director of Equity/Title IX Coordinator or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion*: Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating this Policy.
- *Revocation of Degree*: While very rarely exercised, the University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to, or in place of, the above sanctions, The University may assign any other sanctions as deemed appropriate.

## **B. Student Group and Organization Sanctions**

The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of University funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in University-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific University privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

### **C. Employee Sanctions/Responsive/Corrective Actions**

Responsive actions for an employee who has engaged in discrimination, harassment, and/or retaliation include, but are not limited to, the following:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*

- *Reassignment*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to or in place of the above sanctions/responsive actions, University may assign any other responsive actions as deemed appropriate.*

**24. Notice of Outcome**

Within ten (10) business days of the conclusion of the Resolution Process (unless any extensions have been provided pursuant to this Policy), the Director of Equity/Title IX Coordinator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the University is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent the University is permitted to share under federal or state law.

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

The Director of Equity/Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official University records, or emailed to the Parties’ University-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

**25. Withdrawal or Resignation Before Complaint Resolution**

**A. Students**

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the University, the Resolution Process may continue, or the Director of Equity/Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the University in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Director of Equity/Title IX Coordinator has discretion to dismiss the Complaint. The Registrar, Office of Admissions, and HR may be notified, accordingly.

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

## **B. Employees**

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the University with unresolved allegations pending, the Resolution Process may continue, or the Director of Equity/Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

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

## **26. Appeal of the Determination**

The Director of Equity/Title IX Coordinator will designate an Appeal Decision-maker – either a three-member panel, an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Director of Equity/Title IX Coordinator.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Director of Equity/Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
- 4) The Final Determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only).

## **B. Request for Appeal**

Any party may submit a written request for appeal (“Request for Appeal”) to the Director of Equity/Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.

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

If the Request for Appeal does not provide information that meets the grounds in this Policy, 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 Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Director of Equity/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Director of Equity/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Director of Equity/Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within seven (7) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

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

### **C. Appeal Determination Process**

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

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

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

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

### **D. Appeal Outcome**

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

new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

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

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official institutional records, or emailed to the Parties’ University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

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

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five (5) available appeal grounds.

#### **E. Sanction Status During the Appeal**

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

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

### **27. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Director of Equity/Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the University community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

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

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

At the discretion of the Director of Equity/Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

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

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

## **28. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms**

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s) under the Code

of Student Conduct or Employee Discipline Procedure, including suspension, expulsion, and/or termination from the University.

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

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

### **29. Recordkeeping**

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

- 1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the Respondent.
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the University's education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any Informal Resolution and the result therefrom.
- 6) All materials used to provide training to the Director of Equity/Title IX Coordinator, Director of Equity/Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the University's Resolution Process, or who has the authority to modify or terminate supportive measures. The University will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

The University will also maintain any and all records in accordance with applicable law.

### **30. Accommodations and Support During the Resolution Process**

#### **Disability Accommodations**

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

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

### Other Support

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

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

### **31. Revision of these Procedures**

These procedures succeed any previous procedures addressing Sex Discrimination or Sex-based Harassment for incidents occurring on or after August 1, 2024. The Director of Equity/Title IX Coordinator will regularly review and update these procedures. The University reserves the right to make changes to this Policy as necessary, and once those changes are posted online, they are in effect.

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

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

These procedures are effective 08-01-2024.

## APPENDIX A: DEFINITIONS

The following definitions apply to the nondiscrimination Policies and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Director of Equity/Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing the nondiscrimination Policies and Procedures. As used in these policies and procedures, the “Director of Equity/Title IX Coordinator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in the University’s education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to the University that can objectively be understood as a request for the University to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
  - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  - An employee whom the University has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
  - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination,

harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.

- **Day.** A business day when the University is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the University exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the University officially recognizes.
- **Employee.** A person employed by the University either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Director of Equity/Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by the University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When the University receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.

- **Required Reporter.** A University employee, or volunteer, who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the Director of Equity/Title IX Coordinator.<sup>12,13</sup>
- **Office of People and Culture.** The Director of Equity/Title IX Coordinator and any member of the Human Resources team.[!](#)
- **Notice.** When an employee, student, or third party informs the Director of Equity/Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, or Other Prohibited Conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or University Policy.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the University's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, retaliation, or Other Prohibited Conduct for engaging in a protected activity under this Policy.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

---

<sup>12</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

<sup>13</sup> The Director of Equity/Title IX Coordinator designated to receive information from Required Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

- **Student.** Any person who has gained admission to the University.
- **Director of Equity/Title IX Coordinator.** At least one official designated by the University to ensure ultimate oversight of compliance with Title IX and the University's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

## **APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS**

**Under this Policy and procedures, the Parties have the right to:**

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and Other Prohibited Conduct, when reported in good faith to University officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any University public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from the University's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by University officials.
- Have the University Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without University pressure, if Informal Resolution is approved by the Director of Equity/Title IX Coordinator.
- Not be discouraged by University officials from reporting discrimination, harassment, retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the University in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement, security, and/or other University officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A University-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.

Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of discrimination, harassment, retaliation, and/or Other Prohibited

Conduct if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
  - Referral to the Employee Assistance Program
  - Referral to community-based service providers
  - Visa and immigration assistance
  - Student financial aid counseling
  - Education to the institutional community or community subgroup(s)
  - Altering campus housing assignment(s)
  - Altering work arrangements for employees or student-employees
  - Safety planning
  - Providing campus safety escorts
  - Providing transportation assistance
  - Implementing contact restrictions (no contact orders) between the parties
  - Academic support, extensions of deadlines, or other course/program-related adjustments
  - Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
  - Timely warnings
  - Class schedule modifications, withdrawals, or leaves of absence
  - Increased security and monitoring of certain areas of the campus
  - Any other actions deemed appropriate by the Administrator
- Have the University maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair the University's ability to provide the supportive measures.
  - Receive sufficiently advanced written notice of any University meetings or interviews involving another party, when possible.
  - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
  - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
  - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
  - Access the relevant evidence obtained and respond to that evidence.
  - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.

- The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, [and to have at least ten (10) business days to review the report prior to the determination.
- Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- Regular status updates on the investigation and/or Resolution Process.
- Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
- A Decision-making panel that is not single-sex in its composition, if a panel is used.
- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings, interviews, and/or hearings that are closed to the public.
- Petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the appropriate standard of proof, Preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a University decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with the University's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

**APPENDIX C: EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS**

Subject to limited exceptions for Pre-Existing Relationships, romantic or sexual relationships (“Relationships”) between faculty or staff members and RMU students are prohibited, whether such Relationships are casual or serious, short-term or long-term. A “Pre-Existing Relationship” is a Relationship between a faculty or staff member and an RMU student that existed (i) before the student enrolled at RMU or (ii) before the faculty or staff member became employed by RMU. PreExisting Relationships must be disclosed promptly to the faculty or staff member’s direct supervisor, the Vice President for People and Culture, and the Vice President for Student Life. Even in the case of a PreExisting Relationship, a faculty or staff member may not teach, advise, coach, supervise, or evaluate a student with whom he or she is in a Relationship. For purposes of this paragraph, Graduate Assistants are considered to be RMU staff members.

Relationships between employees in which power differentials are inherent are strongly discouraged; for example, a Relationship between two employees where one individual has supervisory or other evaluative authority over the other. Any Relationship involving an inherent power differential must be disclosed promptly to both employees’ direct supervisors and the Vice President for People and Culture. Any employee involved in a Relationship with someone over whom he or she has supervisory authority must recuse himself or herself from decisions that affect the compensation, evaluation, or employment conditions of the subordinate.

The University reserves the right to intervene if any of the Relationships described above have the potential to compromise the University’s academic or professional integrity. Any questions about the applicability of this Policy to a particular Relationship should be addressed to the faculty or staff member’s direct supervisor or the Vice President for People and Culture.

## **APPENDIX D: PREGNANCY AND RELATED CONDITIONS AND PARENTING STUDENT POLICY**

### **32. Non-Discrimination Statement**

The University does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). The University prohibits members of the University community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

### **33. Definitions**

- ***Familial Status.*** The configuration of one’s family or one’s role in a family.
- ***Marital Status.*** The state of being married or unmarried.
- ***Parental Status.*** The status of a person who, with respect to another person who is under the age of 18,<sup>14</sup> is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- ***Pregnancy and Related Conditions.*** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.<sup>15</sup>
- ***Reasonable Modifications.*** Individualized modifications to the University’s policies, practices, or procedures that do not fundamentally alter the University’s education program or activity.

### **34. Information Sharing Requirements**

---

<sup>14</sup> Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

<sup>15</sup> “The Department interprets ‘termination of pregnancy’ to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion.” Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

Any University employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Director of Equity/Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access to the University's education program and activity. If the employee has a reasonable belief that the Director of Equity/Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Director of Equity/Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Director of Equity/Title IX Coordinator will contact the student and inform the student of the University's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Director of Equity/Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

### **35. Reasonable Modifications for Students**

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to the University's education program and activity. Any student seeking Reasonable Modifications must contact the Director of Equity/Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education

- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Director of Equity/Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and the University's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Director of Equity/Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Director of Equity/Title IX Coordinator will consult with disability staff to ensure the student receives reasonable accommodations for their disability as required by law.

### **36. Certification to Participate**

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

1. The certified level of physical ability or health is necessary for participation;
2. The institution requires such certification of all students participating; and

3. The information obtained is not used as a basis for pregnancy-related discrimination.

### **37. Lactation Space Access**

The University provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Any student or employee who needs lactation space may contact the Director of Equity/Title IX Coordinator. Employees may also contact Human Resources.

### **38. Leaves of Absence**

#### **A. Students**

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in Recipient housing, subject to the payment of applicable fees.

To the extent possible, the University will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar University-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar Recipient-supported funding by exercising their rights under this policy.

The Title IX Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Director of Equity/Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

**B. Employees**

Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

**39. Policy Dissemination and Training**

A copy of this policy will be made available to faculty and employees in annually required training and posted on the University website. The University will alert all students about this policy and the location of this policy as a part of annual Title IX student education. The Office of Student Equity & Title IX will make educational materials available to all members of the University community to promote compliance with this policy and familiarity with its procedures.