

Florida Institute Of Technology Title IX Sexual Harassment Policy

Applies to:	Last Review Date:	Approved by:
Florida Tech Community	March 25, 2026	David McMahan, Vice President for Student Affairs & Title IX Coordinator

I. Policy Statement

Consistent with the University's Nondiscrimination Notice and the U.S. Department of Education's implementing regulations for Title IX of the Education Amendments of 1972 ("Title IX") (see 34 C.F.R. § 106 et seq.), Florida Institute of Technology ("University") prohibits Sexual Harassment that occurs within its education programs or activities.

For this policy's purposes, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation.

Administrators, faculty members, staff, students, contractors, guests, and other members of the University community who commit Sexual Harassment, are subject to the full range of University discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (that is, termination or dismissal); physical restriction from University property; cancellation of contracts; and any combination of the same.

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

Please also see Florida Tech's "Title IX Policy on Pregnancy or Related Conditions & Parental Status" for further Title IX regulations at the university.

II. Scope

This policy applies to Sexual Harassment that occurs within the University's education programs or activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other members of the University community.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the University's education programs or activities; such sexual misconduct may be prohibited by other University policies and standards.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic

boundaries of the United States, even if the Sexual Harassment occurs in the University's education programs or activities, such as a study abroad program. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by other University policies and standards.

III. Title IX Coordinator

Florida Institute of Technology has designated a Title IX Coordinator to coordinate compliance with and respond to inquiries concerning Title IX. A report of a violation of this policy should be made to:

Kelsey Kimball, Senior Deputy Title IX Coordinator, Equal Opportunity Investigator, and Interim CARE Chair

Denius Student Center

321-674-7153

kgarrett@fit.edu or titleixcoordinator@fit.edu

David McMahan, Title IX Coordinator and Vice President of Student Affairs

321-674-7386

dmcmahan@fit.edu

These are the additional Title IX Deputy Coordinators:

- **Jennifer Mercurio**, Deputy Athletic Director
321-674-8931
jmercurio@fit.edu
- **Pat Francois**, Director of Human Resources and Equal Opportunity
321-674-7277
pfrancois@fit.edu

The Title IX Coordinator and the Deputy Coordinators can answer questions regarding the process for reporting, investigating, and adjudicating complaints of gender discrimination. The Title IX Coordinator and the Deputy Coordinators are not confidential resources but can refer persons to confidential resources and other resources.

Any person wishing to make an anonymous report of a violation of Title IX may do so by completing a secure Online Reporting Form.

Any person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting: the U.S. Department of Education's website or calling 1 800 421 3481.

If a violation of this policy may also violate a criminal law, impacted individuals are encouraged to report their complaint to the local law enforcement authority where the incident occurred.

- Melbourne Police Department – 321 608 6731
- Palm Bay Police Department – 321 952 3456
- Brevard County Sheriff – 321 253 6658

Any person making a complaint under this policy may pursue a complaint with the University and police simultaneously. The police and the University independently investigate complaints of relationship violence and sexual misconduct. The police investigate to determine whether there has been a violation of criminal laws. The University investigates to determine whether there has been a violation of University policy. The investigations proceed concurrently, and the outcome of one investigation does not determine the outcome of the other investigation.

Occasionally, the University may need to briefly suspend the fact-finding aspect of its investigation at the request of law enforcement while the police are in the process of gathering evidence. The University will endeavor to maintain regular contact with law enforcement to determine when it may begin or continue its investigation. The University will promptly resume its investigation as soon as notified by the police department that the police department has completed its evidence gathering process, or sooner if the University determines that the evidence gathering process will be lengthy or delayed. The University will not delay its investigation until the ultimate outcome of the criminal investigation. If the University investigation is briefly suspended, the University will continue to communicate with the Complainant and Respondent regarding their rights, procedural options, and the implementation of appropriate interim supportive measures to assist and protect the safety of the Complainant, Respondent, and the campus community and to prevent retaliation.

IV. Definitions

- A. **"Sexual Harassment"** is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.
- B. **"Quid Pro Quo Sexual Harassment"** is an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
- C. **"Hostile Environment Sexual Harassment"** is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that

it effectively denies a person access to the University's Education Programs or Activities.

D. **“Sexual Assault”** includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape¹. ¹ The University's definition of “Sexual Assault” is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the University to adopt a definition of “Sexual Assault” that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

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

E. **“Domestic Violence”** is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Florida, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of Florida.

F. **“Dating Violence”** is violence committed by a person –

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

G. **“Stalking”** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or
- Suffer substantial emotional distress.

H. **“Sexual Exploitation”** occurs when an individual takes non-consensual or abusive sexual advantage of another for that individual’s own advantage or benefit, or for the advantage or benefit of anyone other than the individual being exploited, and the behavior does not otherwise constitute one of the other sexual violence offenses prohibited by this Policy. Examples of sexual exploitation include, but are not limited to:

- A. Engaging in voyeurism (viewing another person for sexual arousal or gratification without consent);
- B. Exposing one’s genitals in non-consensual circumstances or inducing another to expose their genitals;
- C. Going beyond the boundaries of consent, such as allowing hidden observers to watch consensual sexual activity;

- D. Invasion of sexual privacy, including observing, recording, or disturbing images of another person's private body areas without consent;
- E. Knowingly transmitting a sexually transmitted infection (STI) to another person;
- F. Non-consensual photographing, video recording, audio recording, or distributing recordings of sexual activity;
- G. Possession, use, and/or distribution of alcohol or other drugs (e.g., Xanax, Ambien, Benadryl, Rohypnol ("Roofies"), Ketamine, GHB, etc.) for the purpose of facilitating any activity prohibited under this Policy; and
- H. Prostituting another person.

All such acts of Sexual Exploitation constitute sexual misconduct and sexual violence under this Policy.

Sexual Exploitation may also constitute misuse of university networks or electronic systems and may violate the [Student Handbook](#), and will be addressed under those policies where applicable.

- A. **"Consent"** is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words, conduct, or action, indicating that an individual has freely chosen to engage in sexual activity or contact. Consent cannot be obtained through (1) the use of coercion or force; or (2) by taking advantage of the incapacitation of another individual. Silence, passivity, or the absence of resistance does not imply consent. Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual activity or contact. Nothing more than proof of non-consent is necessary for a policy violation; proof of force or resistance is not necessary.
- B. **"Incapacitated"** refers to the state where a person is incapable of giving consent. A person is incapacitated if that person is in a physical or mental state that causes the person to be unable to make a knowing and voluntary choice to engage in sexual activity or contact. A person may also become incapacitated due to many factors, including the use of alcohol and/or drugs, or when the person is asleep or unconscious, or due to intellectual or other disability. When determining incapacitation, the inquiry is whether a sober, reasonable person in the Respondent's position should have known that the Complainant was incapacitated and could not provide consent. Evidence of incapacitation may

include, but is not limited to, slurred speech, bloodshot eyes, the smell of alcohol on breath, unsteadiness when walking, vomiting, unusual behavior, etc.

- C. **“Coercion”** is conduct, which can be verbal and/or physical, that includes intimidation, manipulation, or threats (either express or implied) that would reasonably cause a person to be in fear of immediate or future harm and that is undertaken to compel a person to engage in sexual activity or contact.
- D. **“Force”** is the use of or threat of physical violence or intimidation, which prevents an individual from making a knowing and voluntary choice to engage in sexual conduct.
 - A. **Physical violence:** hitting, restraining, pushing, kicking, etc.
 - B. **Threats:** a threat can be anything that gets someone to do something to do something they wouldn't ordinarily have done absent the threat
 - C. **Intimidation:** an implied threat that menaces and/or causes reasonable fear
- E. **“Reasonable Person”** is defined as a hypothetical, objective individual of similar age, education level, cultural background, and position within the Florida Tech community as those involved, who exercises average care, judgment, and sensitivity in assessing behavior in the given context.
- F. **“Retaliation”** is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- G. **“Complainant”** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- H. **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- I. **“Formal Complaint”** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment in accordance with this policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the University's Education Programs or Activities. A “document filed by a Complainant” means a document or electronic submission (such as an email)

that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the complaint.

- J. **“Supportive Measures”** are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the University's Education Programs or Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the University's education environment, or to deter Sexual Harassment. Supportive measures may include counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.
- K. **“Education Programs or Activities”** refers to all the operations of the University, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the University.

V. Understanding Hostile Environment Sexual Harassment

In determining whether a hostile environment exists, the University will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The University will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant's position. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

The University encourages members of the University Community to report any and all instances of Sexual Harassment, even if they are unsure whether the conduct rises to the level of a policy violation.

Some specific examples of conduct that may constitute Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging or massaging
- Sexual innuendos, jokes, or humor
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- Email, internet, or other electronic use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes

VI. Understanding Consent, Incapacitation, and Reasonable Person

Consent

Lack of consent is a critical factor in determining whether Sexual Harassment has occurred. As defined above, consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct, or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes a lack of consent, even if it sounds insincere or indecisive.

Impairment or incapacitation due to alcohol and/or drug use, permanent/ temporary psychological or physical disability, and being below the age of consent in the applicable jurisdiction are factors that detract from or make consent impossible.

Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction) and/or is physically or mentally helpless. An individual is also considered incapacitated and therefore unable to give consent when asleep, unconscious, or otherwise unaware that sexual contact is occurring.

Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person. One’s own intoxication is not an excuse for failure to recognize another person’s incapacitation.

Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol or other drugs, inebriation, or intoxication alone is insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual’s:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature of the circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

Reasonable Person Standard

For the purposes of evaluating alleged conduct under this policy, a Reasonable Person is defined as a hypothetical, objective individual of similar age, education level, cultural background, and position within the Florida Tech community as those involved, who exercises average care, judgment, and sensitivity in assessing behavior in the given context.

This standard is used to determine whether conduct would be considered severe, pervasive, and objectively offensive enough to interfere with an individual's ability to participate in or benefit from an educational program or activity. The Reasonable Person standard ensures that allegations are assessed objectively and not solely based on the subjective experiences of the complainant or respondent.

The university will apply this standard while also considering the totality of the circumstances, including the setting of the incident, the relationship between the parties, the power dynamics involved, and the lived experience of the individuals affected.

VII. Reporting Sexual Harassment

All individuals are encouraged to promptly report conduct that may violate this policy to the University through its Title IX Coordinator. As discussed above, notice may be given at:

TitleIXCoordinator@FIT.EDU or directly to either:

Kelsey Kimball, MPA, Senior Deputy Title IX Coordinator

Denius Student Center, room 214 | 321-674-7153 | kgarrett@fit.edu

David McMahan, J.D., Vice President for Student Affairs & Title IX Coordinator

Denius Student Center, room 212 | 321-674-7386 | dmcmahan@fit.edu

An electronic form may also be used to file a report. The form can be accessed at: https://cm.maxient.com/reportingform.php?FloridaInstofTech&layout_id=1

The Title IX Coordinator or their designee(s) are the people at the University with the authority to institute corrective measures on the University's behalf pursuant to this policy.

All individuals are encouraged to report conduct that may violate criminal law to both the University and to local law enforcement authority having jurisdiction where the conduct occurred. These processes are not mutually exclusive.

The University strongly encourages individuals affected by Sexual Harassment in any of its forms, including relationship violence and stalking, to talk to someone about what happened and obtain support services. The University also needs to respond appropriately to reports of violations of this policy in order to provide a safe and effective learning environment.

The University can most effectively investigate and respond to alleged violations of this policy if the complaint is made as promptly as possible after the alleged violence or misconduct occurs. The University does not limit the period for reporting. If the Respondent is not a member of the University community at the time of the report, the University will still seek to meet its legal obligations by providing reasonably available support for a Complainant, but it cannot initiate its Title IX grievance process. However, the University will assist a Complainant in identifying external reporting options.

VIII. Amnesty

The University strongly encourages victims and other individuals to report all potential violations of this policy and medical emergencies. It is likely that many Complainants may be hesitant when it comes to reporting conduct that he/she believes violates another University policy because of fear that they personally may be accused of violating policies in connection with the incident they are reporting.

Underage drinking is a common example of conduct that may have occurred during such an incident.

Because of the importance of reporting Sexual Harassment, and in order to encourage reporting, the University will not normally charge a Complainant who reports a violation of this policy, even though the Complainant may have participated in a non-violent violation of the Code of Conduct or University policy (e.g., unauthorized use of alcohol).

IX. Special Advice for Individuals Reporting Sexual Assault, Domestic Violence, Dating Violence, or Stalking

If you believe you are the victim of Sexual Assault, Domestic Violence, or Dating Violence, get to safety and do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. For those who believe that they are victims of Sexual Assault, Domestic Violence, or Dating Violence, the University recommends the following:

- Get to a safe place as soon as possible.
- Try to preserve all physical evidence of the crime—avoid bathing, using the toilet, rinsing one's mouth, or changing clothes. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- Do not launder or discard bedding or otherwise clean the area where the assault occurred- preserve for law enforcement
- Preserve all forms of electronic communication that occurred before, during, or after the assault

- Contact law enforcement by calling 911.
- Get medical attention - all medical injuries are not immediately apparent. This will also help collect evidence that may be needed in case the individual decides to press charges. Local hospitals have evidence collection kits necessary for criminal prosecution should the victim wish to pursue charges. Take a full change of clothing, including shoes, for use after a medical examination.
- Contact a trusted person, such as a friend or family member, for support.
- Talk with a licensed professional counselor, University chaplain, or health care provider who can help explain options, give information, and provide emotional support.
- Make a report to the Title IX Coordinator or their designee(s).
- Explore this policy and avenues for resolution under the Title IX Grievance Process.
- Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

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

- obtaining Supportive Measures
- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- filing a Formal Complaint
- requesting that no further action be taken

X. Mandatory Reporters - University Employees

All University employees, other than confidential resources acting in their capacity as confidential resources, must bring reports of violations of this policy immediately to the attention of the Title IX Coordinator or their designee(s), for proper escalation. Failure to do so can result in discipline, up to immediate discharge.

Individuals who choose to discuss an incident of Sexual Harassment only in a privileged/confidential or private setting should understand that the University will not be able to conduct an investigation into the particular incident, or pursue disciplinary action

against the alleged perpetrator unless the incident is reported to the University directly by the alleged victim, law enforcement, someone who is obligated to make a report, or by a confidential resource who has been given written permission by the alleged victim to make a report. Confidential resources who are able to maintain the confidentiality of reports will still assist their clients in receiving support services, regardless of whether a report is made. At the individual's option, this will include coordinating with the University to provide any necessary interim measures.

Confidential Resources

Confidential resources are those campus and community professionals who can maintain legally protected confidentiality within the University. The University provides confidential on-campus resources where someone may discuss the situation even if he or she is not sure about reporting the incident to the Title IX Office or law enforcement. The following are designated confidential sources of support at Florida Institute of Technology:

- **Student Counseling Center**
321 674 8050
<https://www.fit.edu/student-counseling-center/>
- **Student Health Center**
321 674 8078
<https://www.fit.edu/health/>
- **Campus Chaplain-Catholic**
321 674 8045
<https://www.fit.edu/ccm/>
- **Protestant Campus Ministers**
Robert Harmon (gharmon@fit.edu) or Pam Tooley (tooleyp@fit.edu)
- **Employee Assistance Program (Staff and Faculty)**
877 398 5816
<https://www.resourcesforliving.com>
Username: ICUBA
Password: 8773985816
- **Student Ombuds - Kristen Nelson**
321 309 3038 / Office Location: Evans Library Suite 136
ombuds@fit.edu

Unless a Complainant affirmatively requests the University to take action in response to a report to one of these confidential sources, discussions with a confidential source are

not considered a report to the University or a request that any action is taken by the University in response to any allegation.

Confidential sources may provide advice, support, and guidance about how to manage the situation as well as information about reporting options.

XI. Advisor of Choice

From the point a formal complaint is made, and until an investigation, adjudication, and appeal are complete, both the Complainant and the Respondent shall have the right to be accompanied by an advisor of choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Limits on the role of an advisor shall be applied equally to both the Complainant and Respondent.

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

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

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

XII. Processing Reports and Complaints

Preliminary Assessment

All reports of alleged violations of this policy are initially reviewed by the Title IX Coordinator or their designee(s), for proper escalation. After receiving a report, the Title IX Coordinator will conduct a preliminary assessment to determine whether the conduct, as reported, falls or could fall within the scope of this policy; and whether the conduct, as reported, constitutes or could constitute Sexual Harassment. If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy and/or could not constitute Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is

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

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

Contacting the Complainant

If a report is not closed as a result of the preliminary assessment and the Complainant's identity is known, the Title IX Coordinator or a Deputy Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and to explain the process for filing a formal complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

Supportive Measures

If a report is not closed as a result of the preliminary assessment, the University will offer and make available supportive measures to the Complainant regardless of whether the Complainant elects to file a formal complaint.

Contemporaneously with the Respondent being notified of a formal complaint, the Title IX Coordinator or their designee(s) will notify the Respondent of the availability of supportive measures for the Respondent, and the University will offer and make available supportive measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The University will also offer and make available supportive measures to the Respondent prior to the Respondent being notified of a formal complaint if the Respondent requests such measures.

The issuance of interim supportive measures is not disciplinary in nature and should not be construed as a determination by the University that the Respondent violated this policy.

The Title IX Coordinator or their designee(s) have the discretion to ensure the appropriateness of any interim measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of interim measures.

Examples of interim protective measures include, but are not limited to, access to counseling or mental health services, an order of no contact, residence hall relocation, and adjustment of course schedules or work-study employment, extensions of deadlines, campus escort services, a leave of absence, transportation arrangements, or reassignment to a different supervisor or position.

The University will maintain the privacy of any interim measures provided under this policy to the extent practicable and will promptly address any violation of the interim measures. These interim measures may be kept in place until the end of any review or appeal process or may be extended permanently as appropriate.

Violations of interim measures, such as University no-contact orders and access restrictions, should be reported to the Title IX Coordinator, or their designee(s) for appropriate escalation to the Title IX Coordinator. Students and employees may face disciplinary action for such violation.

Interim Removal

At any time after receiving a report of Sexual Harassment, the Title IX Coordinator or their designee(s) may remove a student Respondent from one or more of the University's education programs or activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator or their designee(s) must offer to meet with the Respondent within three business days and provide the Respondent an opportunity to challenge the interim removal.

The interim removal challenge review is limited in scope and is intended to assess whether the University reasonably determined, at the time of removal, that the respondent's continued presence posed an immediate threat to the physical or emotional safety of any individual or created a significant risk of substantial disruption to university operations. A respondent may submit a written request to challenge the emergency removal. The submission may include information the respondent believes is relevant to the necessity or appropriateness of the emergency removal but is not required to include evidence, witness statements, or legal argument, and does not constitute a hearing or adjudication of responsibility. The emergency removal will remain in effect during the review. The outcome of the review will be communicated in writing. This process is separate from the Title IX grievance procedure and does not alter the presumption of non-responsibility

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

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

Formal Complaint

The formal grievance process will be initiated only if the Complainant files a formal complaint requesting that the University investigate the allegation of Sexual Harassment or if the Title IX Coordinator files a formal complaint. Provided, however, that at the time the Complainant submits a formal complaint, the Complainant must be participating in or attempting to participate in one or more of the University's education programs or activities. The Title IX Coordinator may file a formal complaint to initiate the investigation process if doing so is not clearly unreasonable. A Title IX Coordinator who signs a formal complaint is not a Complainant or party to the proceeding.

The notice will inform the parties that they may have an advisor of their choice to assist them throughout the grievance process, and that they have the right to review all relevant evidence. The notice will identify the Title IX Investigator assigned to the complaint.

Consolidation of Formal Complaints

The University may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

Dismissal Prior to Commencement of Investigation

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

- The conduct alleged in the formal complaint would not constitute Sexual Harassment even if proved; or
- The conduct alleged in the formal complaint falls outside the scope of the policy (that is, because the alleged conduct did not occur in the University's education programs or activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

In the event the Title IX Coordinator determines the formal complaint should be dismissed pursuant to this section, the Title IX Coordinator or their designee(s) will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator, or their designee(s), may refer the subject matter of the formal complaint to other University offices, as appropriate. A dismissal pursuant to this section is presumptively a final determination for purposes of this policy, unless otherwise specified in writing by the Title IX Coordinator, or their designee(s), in the written notice of dismissal.

Notice

Both the Complainant and the Respondent will be notified in writing within five days after a formal complaint has been received and the University has confirmed the Complainant's desire to initiate a formal investigation into the matter. The notice will be issued by the Title IX Coordinator, or their designee(s), and will be sent to the individual's official University email account. Individuals are presumed to check their email accounts regularly to receive such communications.

The notice shall include: a link to this policy, sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, including the identities of the parties involved, if known, the date and location of the alleged incident, and the conduct allegedly constituting Sexual Harassment. The notice will inform the parties that they may have an advisor of their choice to assist them throughout the grievance process, and that they have the right to inspect and review all relevant evidence. The notice will identify the Title IX Investigator assigned to the complaint. The notice will also advise the parties that the Respondent is presumed not responsible for a violation of the policy, and a determination will not be made until the conclusion of the adjudication process and any appeal.

Each party shall be notified of the University's prohibitions on retaliation and false statements and shall be provided information about resources that are available on campus and in the community.

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

XIII. Investigation

Commencement and Timing

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The

burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties. The investigation will culminate in a written investigation report, specified in the "Investigation Report," that will be submitted to the adjudicator during the selected adjudication process. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within thirty (30) to forty-five (45) days of the transmittal of the written notice of Formal Complaint.

Investigatory Process

During an investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains the discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning the sexual history of the Complainant. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

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

The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not the parties. The investigation will culminate in a written investigation report that will be submitted to the adjudicator.

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

All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information throughout the investigation process. In some cases, the investigator may interview the parties on more than one occasion.

Documentation of Investigation

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

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

Access to the Evidence

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

Investigation Report

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

XIV. Adjudication

Hearing Officer

In all cases where the complaint is not resolved through informal resolution, the University shall assign a hearing officer to adjudicate the complaint. The hearing officer shall be selected by the University and may consist of a University official with no prior involvement in the case or an externally trained professional. The Title IX Coordinator, or their designee(s), will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator.

Hearing Notice and Response to the Investigation Report

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date and time for the hearing, and providing a written explanation of the procedures for the hearing. The hearing may not be held any earlier than ten (10) days from the date of transmittal of the written notice.

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

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history, or for any other reason;
- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the University's hearing procedures;
- Any request that the parties be separated physically during the r hearing;
- Any other accommodations that the party seeks with respect to the hearing;
- The name and contact information of the advisor who will accompany the party at the hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning.

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

- An argument regarding whether any of the allegations in the formal complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the formal complaint constitute Sexual Harassment.

Issuance of Notices of Attendance

The Title IX Coordinator, or their designee(s), will transmit notices of attendance to any University employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

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

The University will not issue a notice of attendance to any witness who is not an employee or a student.

Hearing

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

The hearing officer will then convene and conduct a hearing pursuant to the hearing procedures. The hearing will provide an opportunity for the Complainant and Respondent to present their testimony, testimony of witnesses, including experts, and any other information relevant to the matter for consideration by the hearing officer. The parties may have an advisor of their choice during the hearing. All hearings will be live hearings and conducted in private. Upon request, accommodations will be made for the parties to be located in separate rooms with technology, enabling all parties and the Hearing Officer to simultaneously see and hear the questioning and testimony of the other party and witnesses. In the hearing officer's discretion, the hearing may be conducted virtually, but the use of video and audio technology, where all participants

participate simultaneously and contemporaneously by use of technology. An audio recording or transcript of the hearing will be made and retained by the University and made available to the parties for inspection and review.

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

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

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

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

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

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

Statements at the Hearing

The hearing officer may consider statements of persons who were not present at the hearing, or persons who were present but not subject to cross-examination, so long as the statements are deemed reliable and relevant by the hearing officer and not otherwise subject to exclusion under this policy. Such statements may include, but are not limited to, statements in police reports or other official reports. Medical records, court records and filings, investigations note of interviews, investigation transcripts, emails, written statements, affidavits, text messages, and social media postings.

In addition, the hearing officer may consider the testimony of any party or witness, whether given during the investigation or during the hearing, if the parties jointly stipulate the testimony may be considered or in the case where neither party requested the attendance of the witness at the hearing.

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

Written Decision

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, together with testimony and non-testimony evidence received at the hearing, and make a determination, based on the preponderance of the evidence, regarding whether a violation of Title IX has occurred.

In the event the hearing officer determines that the Respondent is responsible for violating this policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent, and such official will determine any discipline to be imposed.

Sanctions will be reasonably calculated to stop the violation and prevent its recurrence. The specific sanctions imposed will be commensurate with the level of offense and in accordance with applicable laws, regulations, policies, and procedures. The University recognizes that some offenses are so serious that suspension, dismissal, or termination of employment may be warranted on the first occurrence. The University's response is based on several factors, including the severity of the conduct and any prior policy violations, and aims to prevent problems from recurring and remedy any discriminatory effects on a Complainant or others.

In addition, prior to issuing a written decision, the hearing office will consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures, will be provided to the Complainant.

After reaching a determination and consulting with the appropriate University official and Title IX Coordinator as specified above, the hearing officer will prepare a written decision.

It shall include identification of the allegations potentially constituting Sexual Harassment made in the formal complaint; a description of the procedural steps taken by the University – including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing; findings of fact supporting the decision, conclusions regarding the University's codes of conduct to the facts and a statement of, and rationale for the determination that a violation of the Title IX policy did or did not occur; the discipline determined by the appropriate University official; whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator, or their designee(s); and a description of the University's grounds for appeal.

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

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

XV. Preponderance of Evidence

The hearing officer will make findings on the merits of an alleged violation using a preponderance of the evidence standard. Preponderance of the evidence means that the greater weight of the evidence favors either the finding of a violation, or the finding of a non-violation. This standard is based on the more convincing evidence and its probable truth or accuracy, and not exclusively on the amount of evidence presented. The burden of proof for the determination of a policy violation lies with the University.

XVI. Dismissal During Investigation or Adjudication

If the conduct alleged in the formal complaint would not constitute Sexual Harassment even if proved, did not occur in a University education program or activity or did not occur against a person in the United States, then the University must dismiss the complaint. However, such a dismissal will not prevent the University from addressing the conduct under another provision of its code of conduct.

The University may dismiss a formal complaint or any of the allegations in it if at any time the Complainant notifies the Title IX Coordinator, or their designee(s), in writing that he/she would like to withdraw the complaint; the Respondent is no longer enrolled or

employed by the University or circumstances prevent the University from gathering sufficient evidence to reach a determination regarding the complaint.

In the event the Title IX Coordinator dismisses a formal complaint, the Title IX Coordinator, or their designee(s), will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the formal complaint to other University offices, as appropriate. A dismissal pursuant to this section is presumptively a final determination as it pertains to this policy unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

XVII. Appeals

The Complainant or Respondent may appeal a decision, including a decision to dismiss a formal complaint, but not including an informal resolution. Both parties may participate equally in the appeal process, even if the party did not file the appeal himself or herself. The appeal must be made within seven (7) days of the date they receive written notification of the decision or, if the other party appeals, within three (3) days of the other party appealing, whichever is later. An appeal must be in writing, submitted to the Title IX Coordinator, and specify the basis for the appeal, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

The original finding is presumed to have been decided reasonably and appropriately by a preponderance of the evidence, and the only grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence, unavailable through the exercise of reasonable due diligence during the original investigation that could have affected the outcome. The person filing the appeal must include a description of this new evidence, why it was not available during the investigation, and how it could affect the outcome of the investigation.
- The Title IX Coordinator, investigator, or hearing officer had a conflict of interest or bias for or against Complainants or Respondents generally, or against the individual Complainant or Respondent, that affected the outcome.

No other grounds for appeal are permitted.

The Title IX Coordinator will share the appeal with the other party or parties.

The Title IX Coordinator will determine the appropriate appeals officer for evaluating the appeal.

Appeals Officer

The appeals officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it involves at least one of the permitted grounds for appeal. If the Appeal Officer determines that the appeal is not timely or that it fails to involve a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

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

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

The appeals officer's decision is the final determination of the University of violations of the Title IX Sexual Harassment policy. Although the length of each appeal will vary depending on the totality of the circumstances, the University strives to issue the appeal officer's written decision within twenty-one (21) days of an appeal being filed.

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

XVIII. Range of Disciplinary Actions

Factors considered by adjudicators when determining sanctions include, but are not limited to, the nature and egregiousness of the behavior, any prior misconduct and sanctions, and impacts of the behavior. Sanctions that may be issued through the Title IX process to any community member found responsible included warning (informal); reprimand (or written warning); probation; restitution; suspension, suspension without pay, or expulsion/termination; and a restriction on eligibility to represent the university at any official function or capacity (e.g., intercollegiate competition or academic presentation).

Students - if a suspension is imposed, it may be for the remainder of a semester, a full semester, an entire academic year, or more (e.g., through the graduation of the complainant) and may have preconditions to consideration for re-enrollment. Additional possible sanctions for students include but are not limited to the following: parental notification, restitution for physical damage to university or private property caused by

the student's conduct or for costs incurred to ameliorate the impact of their behavior, restriction or revocation of privileges, no contact orders, trespass orders, counseling or reflection expectations (e.g., mandated assessment[s] or educational tasks such as research papers or essays), cancellation of pre-registration, a hold being placed on the student's record, the prevention of the awarding of a degree or the revocation of such. Any allegations of a violation of sanctions provided to a student through the Title IX process will be referred to the Office of Student Conduct for evaluation and address applying the Student Code of Conduct process to evaluate whether a failure to comply with a university official/body occurred and the appropriate outcome if that is found.

Employees – upon a finding of responsibility for a violation of the Title IX policy on the part of a faculty or staff member (including contingent and contract employees), the matter will be referred to the Vice President for Human Resources (and the Provost where faculty are involved) to evaluate whether the determination of responsibility warrants disciplinary action in accordance with any policies applicable to these individuals. Additional sanctioning may include demotion, no contact orders, divisional separation, non-reappointment, and denial of promotion. An employee may be suspended for any length of time determined appropriate by the Vice President of Human Resources.

Following any separation from the university through suspension or otherwise, the individual will be required to meet with the Dean of Students (student) or Vice President of Human Resources (employee) to discuss re-entry and expectations going forward.

XIX. Informal Resolution

After the Complainant and Respondent receive written notice of the filing of a formal complaint, the parties may voluntarily consent, with Title IX Coordinator approval, to voluntarily participate in an informal resolution process instead of a formal investigation and hearing. The informal resolution process will not be used to resolve an allegation of sexual assault or allegations that a non-student employee sexually harassed a student. The parties may agree to attempt an informal resolution of the complaint at any time during the investigation, hearing, and appeal process prior to issuance of the final determination regarding responsibility. If the parties agree to attempt informal resolution, the Title IX Coordinator, or their designee(s), shall act as an impartial mediator assisting the parties to attempt to reach a mutual agreement that satisfactorily addresses their individual concerns and ensures their ability to participate without Harassment in the University's educational programs and activities. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator, or their designee(s), will transmit a written notice to the parties that describe the parameters and requirements of the informal resolution process to be used, identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, their

designee(s), another University Official, or a suitable third party), explains the effect or participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations in the formal complaint and explains any other consequence result from participation in the informal resolution process.

After receiving this notice, each party must voluntarily provide written consent to the Title IX Coordinator or their designee(s) before the informal resolution may commence.

If the parties reach a resolution, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, it will be documented in writing signed by the parties and the Title IX Coordinator, or their designee(s). Once both parties and the Title IX Coordinator (or their designee(s)) sign the resolution, the resolution is final. The allegations addressed by the resolution are considered resolved. They will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University.

The Title IX Coordinator, or their designee(s), will implement any actions required of the University by the terms of the resolution. If either or both parties request to withdraw from the informal resolution or discontinue the informal resolution process, it will be terminated, and the formal grievance process will be initiated or resumed.

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

An informal resolution is not subject to appeal.

XX. Presumption on Non-Responsibility

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

XXI. Resources

Any individual affected by or accused of Sexual Harassment will have equal access to support and counseling services offered through the University. The University

encourages any individual who has questions or concerns to seek the support of University identified resources. The Title IX Coordinator or their designee(s) are available to provide information about the University's policy and procedure and to provide assistance.

XXII. Conflict of Interest, Bias and Procedural Complaints

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

XXIII. Objections Generally

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

XXIV. Academic Freedom

The University will construe and apply this policy consistent with the principles of academic freedom recognized by University policy. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the principles of academic freedom recognized by the University.

XXV. Relationship with Criminal Process

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

XXVI. Recordings

Wherever this policy specifies that an audio or video recording will be made, the recording will be made only by the University and is considered the property of the University, subject to any right of access that a party may have under this policy, FERPA, and other applicable federal, state, or local laws. Only the University is permitted to make audio or video recordings under this policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under

this policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

XXVII. Vendors, Contractors, and Third Parties

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

XXVIII. Bad Faith Complaints and False Information

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

XXIX. Retaliation

It is a violation of this policy to engage in retaliation. Reports and Formal Complaints of retaliation may be made in the manner specified for reporting sexual Harassment and filing formal complaints. Any report or Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Sexual Harassment, as the case may be. The University retains the discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common nexus.

XXX. Confidentiality

The University will keep confidential the identity of any individual who has made a report or Formal Complaint of Sexual Harassment or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sexual Harassment or Retaliation including any Respondent, and the identity of any witness. The University will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records,

and appeal records. Notwithstanding the foregoing, the University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations, including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the University's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this policy.

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

Note that certain types of Sexual Harassment are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally-identifying information.

XXXI. Other Violations of this Policy

Alleged violations of this policy, other than violations of the prohibitions on Sexual Harassment and Retaliation, are subject to further review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other University policies and standards for employees.

XXXII. Other Forms of Discrimination

This policy applies only to Sexual Harassment. Complaints of other forms of sex discrimination are governed by the University's Nondiscrimination Policy.

XXXIII. Education

The University is committed to the prevention of Sexual Harassment through education and awareness programs. The University widely publicizes policies prohibiting Sexual Harassment within its community and engages in regular, reoccurring training on the procedures for addressing such conduct. Throughout the year, programs designed to promote awareness are presented by a variety of campus resources. Education programs include an annual overview of the University's Sexual Harassment policies for students and employees, including discussion on prohibited conduct, effective consent, bystander intervention, and the impact of alcohol and illegal drugs on Sexual

Harassment. The Title IX Coordinator or their designee(s) are responsible for coordinating ongoing training to new and existing students and employees on campus.

XXXIV. Outside Appointments, Dual Appointments, and Delegations

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

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

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

XXXV. Training

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

XXXVI. Recordkeeping

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

XXXVII. Definitions

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

XXXVIII. Discretion in Application

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

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

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