

## **Sexual Misconduct Policy**<sup>1</sup>

### **I. Scope**

This policy (“Policy”) applies to members of the Board of Trustees, all employees of Vincennes University (“University”) including administrators, faculty, staff, hourly/salaried employees, to all students and third parties, including but not limited to visitors, vendors, and contractors. It applies to all prohibited conduct that occurs:

1. On campus or other property owned or controlled by the University;
2. In the context of a University employment or education program or activity occurring within the United States, including but not limited to research, online, or University-approved internship programs;
3. Outside the context of a University employment or education program or activity but has continuing adverse effects that create a hostile environment for students or employees while on campus or other property owned or controlled by the University or in any University employment or education program or activity; or
4. Any education program or activity over which the University exercises substantial control over the Respondent (as defined in this Policy) and the context in which the prohibited conduct occurred.

When a student organization has contributed to or created a hostile environment in connection with an incident prohibited by this Policy, the student organization will be subject to discipline and appropriate sanctions.

Other University policies related to misconduct remain in effect for complaints of misconduct other than Sexual Misconduct. Any report or complaint of misconduct that includes elements of Sexual Misconduct will be addressed in accordance with this Policy and associated procedures.

### **II. Policy Statement**

In compliance with Title IX and the regulations promulgated thereunder, the Clery Act and the Violence Against Women Reauthorization Act of 2013 (“VAWA”), Vincennes University is committed to maintaining an educational and working environment free from discrimination on the basis of sex or gender, including sexual harassment, misconduct, and violence.

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<sup>1</sup> All capitalized terms are defined in Section III, “Definitions.”

Vincennes University does not discriminate on the basis of sex in its educational programs and activities, including employment and admission.

The person responsible for implementing this Policy is the Title IX Coordinator. If circumstances require, the Title IX Coordinator may designate another person to implement the Policy.

Vincennes University's Title IX Coordinator is:

Regina McCord-Fithian  
Title IX Coordinator  
Vincennes University  
1002 North 1st Street  
Vincennes, IN 47591  
Phone: 812-888-6947  
Email: [RMcCord-Fithian@vinu.edu](mailto:RMcCord-Fithian@vinu.edu)  
Website: <https://www.vinu.edu/nondiscrimination-policy>

### **III. Care and Support Resources**

Vincennes University is committed to treating all individuals who come upon its campuses with dignity, care, and respect. Any individual who experiences or is affected by discrimination, harassment or sexual misconduct, whether as a Complainant or a Respondent, may benefit from access to care and support resources through the University and the local community.

The University encourages all individuals to seek the support of and use all available internal and external resources, regardless of when or where the incident occurred. When a complaint alleging a violation of this Policy is received by the Title IX Coordinator, the Coordinator shall promptly contact the Complainant directly to discuss the availability of Supportive Measures. These supportive measures are available to a Complainant or Respondent regardless of whether a formal complaint is filed. Supportive Measures include, but are not limited to: (i) counseling; (ii) extensions of deadlines or other course-related adjustments; (iii) modifications of work or class schedules; (iv) campus escort services; (v) mutual restrictions on contact between the parties; (vi) changes in work or housing locations; (vii) leaves of absence; and (viii) increased security and monitoring of certain areas of the campus. All Supportive Measures shall be implemented in a manner that preserves the confidentiality of the Complainant and Respondent to the extent maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures.

The following is a non-exhaustive list of such resources that are available to the members of the Vincennes University community.

VU Counseling Center

Learning Resource Center, Room 134  
1002 North First Street  
Vincennes, IN 47591  
Phone: 812-888-4374

Hope's Voice of Knox County

105 Broadway Street  
Vincennes, IN 47591  
Phone: 812-899-4673

Good Samaritan Hospital

520 South 7<sup>th</sup> Street  
Vincennes, IN 47591  
Phone: 812-882-5220

Vincennes University Police Department

1201 N 2nd St  
Vincennes, IN 47591  
Phone: 812-888-5555

Sexual Assault Crisis Hotlines

- Hope's Voice: 812-899-4673
- Vincennes University Police Department: 812-888-5555
- The Samaritan Center: 812-886-6800

**IV. Definitions**

a. Advisor: Any single individual who provides either party to a complaint with support, guidance, or advice. With the exception of the Hearing, Advisors are not permitted to actively participate or speak during the Investigation, proceedings, and related meetings. In certain circumstances where a party may be unable to speak on their own behalf, an Advisor may present a statement prepared by the party. For individuals with communication disabilities, interpreters shall not be considered an "Advisor" unless the party so requests.

b. Business Day: The days Monday through Friday that the University’s administrative offices are open for business.

c. Calendar Day: The days Monday through Sunday.

d. Complainant: An individual who is participating in or attempting to participate in an educational program or activity of the University and who has alleged that a violation of the Sexual Misconduct Policy has occurred. The University may serve as the complainant when an individual who has alleged Sexual Misconduct does not wish to participate and the University has determined it is necessary to move forward under the applicable procedure.

e. Confidential Employees: Certain University employees who, based on their own professional licensure and the nature of their role with the University, are available to speak with individuals about incidents of Sexual Misconduct and maintain the individual’s desire for anonymity and absolute confidentiality. These employees are exempt from the reporting requirements that apply to Responsible Employees (as defined below). Individuals who desire anonymity in seeking assistance about Sexual Misconduct should be referred to a Confidential Employee. Confidential Employees include, but are not limited to:

1. Licensed, professional mental health counselors working in that capacity, and those they supervise;
2. Health care professionals and staff located in on-campus healthcare centers; and
3. Any staff or specialists on a campus specifically designated as non-professional sexual assault advocates.

f. Consent: An agreement expressed through affirmative, voluntary words or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time. The following apply to the definition of “Consent”:

1. Consent may be withdrawn at any time, as long as it is clearly communicated.
2. Consent cannot be coerced or compelled by force, threat, deception, or intimidation.
3. Consent cannot be given by someone who is Incapacitated.
  - i. Consent does not exist when the individual initiating sexual activity knew or should have known of the other individual’s Incapacity.
4. Consent cannot be assumed based on silence, the absence of “no” or “stop”, the existence of a prior or current relationship, or prior sexual activity.

g. Course of Conduct: Two or more acts, including but not limited to acts in which a person does directly, indirectly, or through third parties, by any action, method, device, or means.

h. Deciding Official. The University employee, or designee, responsible for making a determination of whether the Preponderance of the Evidence Standard has been met and what sanctions are appropriate under this Policy. The appropriate Deciding Official is determined by the status of the Respondent. If Respondent is a student, the Deciding Official will be the Dean of Students or designee. If Respondent is a staff member, the Deciding Official will be the Director of Human Resources or designee. If Respondent is a faculty member, the Deciding Official will be the Provost or designee. If the Respondent is a visitor, the Deciding Official will be the Dean of Students or designee. For all other Respondents who are third-parties (including but not limited to contractors, vendors, and volunteers), the Deciding Official will be a trained, non-conflicted individual internal or external to the University appointed by the Title IX Coordinator.

i. Formal Complaint: A written description of facts provided by a Complainant that alleges a violation of the University's Sexual Misconduct Policy and including a request that the University investigate the allegations. The written Formal Complaint must contain the physical or digital signature of the Complainant (or by the Title IX Coordinator on Complainant's behalf pursuant to this Policy) or otherwise indicate that the Complainant is filing the Formal Complaint. The procedures for investigation and resolution of allegations of Sexual Misconduct are not available to a Complainant without the filing of a Formal Complaint.

j. Incapacitated/Incapacity: An individual who is unable to understand the facts, nature, extent or implications of the situation due to drugs, alcohol, a mental disability, being asleep or unconscious, or based on their age (pursuant to Indiana law). With respect to alcohol and drugs, intoxication and/or impairment is not presumptively equivalent to incapacitation.

k. Informal Complaint. A written or verbal description of facts made by the Complainant to the Title IX Coordinator or other Responsible Employee which alleges conduct that violates this Policy, but does not otherwise qualify as a Formal Complaint. The Title IX Coordinator may, in accordance with Section VIII., convert an Informal Complaint to a Formal Complaint.

l. Investigation: A fact-finding inquiry implemented by the Title IX Coordinator (or designee) that gathers evidence for the purpose of submitting it to the Deciding Official to determine whether a violation of the University's Sexual Misconduct Policy has occurred.

m. Investigator: An individual or a team authorized by the University to investigate reports of Sexual Misconduct under the procedures identified in this Policy. The Investigator shall have received training on issues of relevance to creating an investigative report that fairly summarizes relevant evidence.

n. Not Responsible Finding: A finding made by the Deciding Official that the Preponderance of the Evidence Standard has not been satisfied.

o. Preponderance of the Evidence Standard: The standard of proof used to determine whether the University's Sexual Misconduct Policy has been violated. A Complaint meets this standard if the Deciding Official determines that it is more likely than not that a violation of this Policy has occurred.

p. Respondent: The person or persons alleged to have violated the Sexual Misconduct Policy.

q. Responsible Employees:

1. Employees of the University who:

- i. Have the authority to take action or redress Sexual Misconduct; or
- ii. Have a duty to report Sexual Misconduct to appropriate school officials; or
- iii. A student could reasonably believe has this authority or duty.

2. Responsible Employees at the University include:

- i. Those who offer course instruction, whether in-person or online, including full-time and part-time faculty, adjuncts, and teaching assistants;
- ii. Faculty/employee student advisors;
- iii. Coaches and athletics staff who interact with students;
- iv. Student affairs staff members, except those designated as Confidential Employees,
- v. Residential hall staff, including resident assistants,
- vi. Those who work in offices or areas that interface with students.

3. Responsible Employees are required to report to the Title IX Coordinator when they are made aware of an incident of Sexual Misconduct.

r. Responsible Finding: A finding made by the Deciding Official that it is more likely than not that Respondent has committed one or more acts in violation of this Sexual Misconduct Policy. The Preponderance of the Evidence Standard must be used when determining responsibility for Sexual Misconduct.

s. Retaliate/Retaliation: Any material adverse action taken against a person for making a good faith report of prohibited conduct, participating in the processes outlined under this Policy, or refusing to participate in any investigation, proceeding, or Hearing. Material adverse action limits or denies an individual's ability to participate in or benefit from the University's educational or employment opportunities and/or activities. Acts of retaliation include intimidation, threats, and/or harassment, whether physical or communicated verbally or via written communication (including the use of e-mail, texts, and social media), as well as adverse changes in work or academic environments, or other adverse actions or threats.

t. Sexual Misconduct: Sexual harassment, sexual assault, other forms of sexual violence, dating violence, domestic violence, sexual exploitation, and stalking. For purposes of this Policy, sex- or gender-based discrimination is considered Sexual Misconduct. The specific definitions relating to what constitutes Sexual Misconduct are further described under Section V. “Prohibited Conduct.”

u. Supportive Measures: non-disciplinary, non-punitive individualized services offered by the University as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Complaint. Supportive measures may include, but not necessarily be limited to: extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, and/or increased security and monitoring of certain areas of the campus.

## V. Prohibited Conduct

### a. Sex- or Gender-Based Discrimination and Harassment

1. Sex- or gender-based discrimination and harassment is unwelcome conduct based on sex, gender, sexual orientation, gender identity, or gender expression, including verbal, nonverbal, or graphic acts of aggression, intimidation, or hostility, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with, limits, or prevents an individual from participating in or benefitting from the University’s education or employment programs and/or activities.

2. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. The University will consider the totality of known circumstances, including but not limited to:

- i. The frequency, nature, severity, location, duration, and context of the conduct, and
- ii. Whether the conduct implicates concerns related to academic freedom or protected speech.

### b. Sexual Harassment

1. Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, nonverbal, graphic, physical, electronic or otherwise, when the conditions outlined in (i) and/or (ii), below, are present.

- i. *Quid Pro Quo*: Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person’s employment, academic standing, aid, benefit, service, or participation in any University programs and/or

activities or is used as the basis for University decisions affecting the individual;  
or

- ii. *Hostile Environment*: A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to: (1) the frequency, nature, severity, location, duration, and context of the conduct; and (2) whether the conduct implicates concerns related to academic freedom or protected speech.

2. Sexual Harassment that is alleged to have occurred in a teaching or classroom setting may present some different issues from those occurring in other environments. The prohibitions outlined in this Policy are meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including matters involving sex, gender, sexuality, sexual orientation, sexual behavior, or gender identity or expression, when, in the judgment of a reasonable person, they arise from legitimate academic purposes. The mere expression of views, words, symbols, or thoughts that some people find offensive does not create a hostile environment or constitute Sexual Harassment.

c. Sexual Assault. Sexual Assault is:

1. Nonconsensual Sexual Contact

- i. Touching the breasts, buttocks, groin or genitals of another, whether clothed or unclothed, intentionally touching another with any of these body parts, and/or making another person touch you or themselves with or on any of these body parts without Consent.

2. Nonconsensual Sexual Penetration

- i. Penetration, no matter how slight, of the vagina or anus with any body part or object without Consent, and/or
- ii. Any contact between the mouth of one person and the genitalia of another person without Consent.

d. Sexual Exploitation. Sexual Exploitation is purposely or knowingly doing any of the following:

1. Causing 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;

2. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., live streaming of images) without the Consent of all subjects or participants;
3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of all participants or viewing another person's intimate parts (including genitalia, groin, breasts or buttocks)) in a place where that person would have a reasonable expectation of privacy;
4. Recording or photographing private sexual activity and/or a person's intimate parts without the Consent of all subjects or participants;
5. Disseminating or posting images of private sexual activity and/or a person's intimate parts without the Consent of all subjects or participants;
6. Prostituting another person; or
7. Exposing another person to a sexually transmitted infection or virus without the other's knowledge.

e. Dating Violence. Dating violence is violence or the threat of violence committed by an individual toward another with whom they have a current or previous relationship of a romantic or intimate nature. The existence of a romantic or intimate relationship will be determined based on the following factors:

1. Length of the relationship,
2. Type of relationship,
3. Frequency of interaction between the people involved in the relationship.

f. Domestic Violence. Domestic violence is violence or the threat of violence committed by an individual toward another who:

1. Is a current or former spouse,
2. Is or has cohabitated with the individual as an intimate partner, or
3. Has a child in common with the individual.

g. Sexual Violence. Physical sexual acts perpetrated against an individual's will or where an individual is incapable of giving consent. Sexual Violence includes rape and sexual assault.

h. Stalking. Stalking occurs when a person engages in a Course of Conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress. Stalking includes "cyber-stalking," a particular form of

stalking in which a person uses electronic media, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

## **VI. Reporting**

### **a. Complainant Reports**

1. The University encourages all individuals to report their allegations of Sexual Misconduct pursuant to these procedures and to report any potential criminal misconduct to the Vincennes University Police Department (“VUPD”) or the appropriate local or state law enforcement agency (please see Section VI(c), “External Reports” for more information.)

2. A Complainant may make a report of a violation of this Policy by submitting an Informal Complaint or a Formal Complaint. In the event a Complainant files an Informal Complaint, the Formal Resolution procedures outlined in this Policy are not available. Please see Section VII. “Requests for No University Action” for additional information.

3. A Formal Complaint of Sexual Misconduct shall result in a formal resolution through the Formal Resolution procedures, as described below. Except in circumstances where there are allegations of Sexual Violence, Complainants have the option to request an Informal Resolution or a Formal Resolution to reports of violations of this Policy. Both options are discussed further below.

4. The Complainant may withdraw the Formal Complaint at any time during the process by submitting a written request to withdraw to the Title IX Coordinator. Such requests will be treated as a request for no University action, which is resolved in accordance with Section VIII of this Policy.

5. The University is committed to safeguarding the privacy of the parties in a manner consistent with the objective to effectively investigate and prevent incidents of Sexual Misconduct. In all cases, the University will share the parties’ information and details of the allegation only with University officials, law enforcement personnel, and other individuals who have a legitimate administrative or legal reason to be so informed. Records will not be disclosed outside of the University unless required by law or subpoena.

6. If someone wishes to make a report of Sexual Misconduct to the University, they can do so at any time by contacting the Title IX Coordinator via phone call, email, or mail to the office address.

7. Reporting options are not mutually exclusive; both internal and external reporting options may be pursued at the same time. Making a report to the University does not automatically result in an Investigation; however, all such allegations shall be reviewed by the Title IX Coordinator and an initial determination made pursuant to the procedures set forth in this Policy.

8. Upon receipt of a report of an alleged violation of this Policy, the Title IX Coordinator shall promptly contact the Complainant to discuss the availability of Supportive Measures. During this initial discussion, the Title IX Coordinator shall advise the Complainant that Supportive Measures are available regardless of whether a Formal Complaint is filed and shall further describe the process of filing a Formal Complaint.

b. Reports from University Employees/Exception for Confidential Employees

1. All Responsible Employees are required to report to the Title IX Coordinator when they are made aware of an incident of Sexual Misconduct.

- i. Responsible employees may not promise confidentiality to a person who shares information related to an incident of Sexual Misconduct.
- ii. Responsible employees must inform that person of their obligation to report to the University.
- iii. Responsible Employees must keep information related to a report of Sexual Misconduct as private as possible, sharing only with those at the University who have a legitimate need to know.

2. Confidential Employees do not have an obligation to report to the University when an individual makes them aware of Sexual Misconduct.

c. External Reports

1. A Complainant also has the option of making a criminal report to the appropriate law enforcement agency. Incidents alleged to have occurred on campus should be reported to the VUPD. Incidents alleged to have occurred off-campus should be reported to the appropriate local law enforcement agency.

2. The Complainant has the right to pursue both the processes outlined in this Policy and the criminal process simultaneously. The Complainant may also choose to pursue either the University's processes or the criminal process exclusively. The Complainant's decision regarding pursuit of the criminal process does not impact the process utilized by the University in investigating and acting upon reports of violations of this Policy.

3. The Formal Resolution process conducted by the University is distinct from the criminal process. The Formal Resolution process initiated by the University will be conducted independently and separately from any investigation conducted by law enforcement. The University may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that result in a Complaint are being investigated by law enforcement. Actions that

take place in the criminal process, including reducing, or dismissing charges, and/or plea agreements, will not determine the resolution of the University process. This information may be considered in the course of the Investigation, if determined to be relevant, but shall not be determinative.

## **VII. Preliminary Procedures, Protocols, and Supportive Measures**

### **a. Initial Determination**

1. Upon receiving a report of sexual misconduct, the Title IX Coordinator or designee will evaluate the information available and determine whether the report alleges conduct that falls under the purview of this Policy.

2. If the Policy applies to the alleged conduct, the Title IX Coordinator or designee will promptly reach out to the Complainant and invite them to meet. During this initial discussion, the Title IX Coordinator must confidentially discuss with the Complainant the nature and availability of supportive measures. Complainant is not required to meet with the Title IX Coordinator or to respond to the outreach.

3. The Complainant will be provided the opportunity to share their wishes regarding resolution with the University. The Complainant may request that the report be resolved formally, through the Formal Resolution procedures or informally, through mediation or other means and in either such cases shall file a Formal Complaint; or that the University takes no action and in such a situation shall file an Informal Complaint.

4. A Complainant's choice not to respond to or meet with the Title IX Coordinator will be treated as a request for no University action and the submission of an Informal Complaint. The University's response to such requests is outlined in Section VIII.

5. Both on- and off-campus resources are available to Complainants, regardless of whether the conduct alleged falls under the jurisdiction of the Policy. The Title IX Coordinator can assist with connecting Complainant to those resources if Complainant wishes.

6. In the event the Title IX Coordinator determines the alleged conduct, even if proven, would: (i) *not* constitute Sexual Misconduct in violation of this Policy; (ii) did not occur in the University's education program or activity; or (iii) did not occur against a person in the United States, then the Title IX Coordinator shall dismiss the Formal or Informal Complaint from consideration under this Policy as a Title IX matter. Although the Formal or Informal Complaint may be dismissed as a Title IX matter, this Policy is intended to address Sexual Misconduct that falls outside of the scope of Title IX. Accordingly, even if the Formal or Informal Complaint is dismissed for Title IX purposes, the Title IX Coordinator may, in their discretion, continue to move forward with the procedures under this policy or may refer the matter to the appropriate University official for resolution under the applicable disciplinary procedures. Any party may appeal the dismissal of a

complaint, or any allegations contained in a complaint, pursuant to the procedures set forth in Section XII(g).

b. Supportive Measures. The Title IX Coordinator will, as requested by Complainant or Respondent and as necessary, coordinate the provision of supportive measures. Complainants and/or Respondents are not required to arrange for such services solely on their own and will be assisted by the Title IX Coordinator. If there is a finding of not responsible or if the Formal Complaint is withdrawn or otherwise resolved, then the Supportive Measures will be removed unless the parties voluntarily agree to continue them.

1. *Documentation Pertaining to Supportive Measures Taken*. The Title IX Coordinator shall document what, if any, Supportive Measures are taken in response to an Informal or Formal Complaint under this Policy. In each instance, the Title IX Coordinator shall document:

- i. The basis for the conclusion that the University's response was not deliberately indifferent and that the University has taken measures designed to restore or preserve equal access to the University's program or activity.
- ii. In the event no Supportive Measures are taken, then the University must document why not the lack of Supportive Measures was not clearly unreasonable in light of the known circumstances.

*General Examples of Supportive Measures*. Supportive Measures may include, but are not necessarily limited to: (i) counseling; (ii) extensions of deadlines or other course-related adjustments; (iii) modifications of work or class schedules; (iv) campus escort services; (v) mutual restrictions on contact between the parties; (vi) changes in work or housing locations; (vii) leaves of absence; and (viii) increased security and monitoring of certain areas of the campus. All Supportive Measures shall be implemented in a manner that preserves the confidentiality of the Complainant and Respondent to the extent maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures.

2. *Specific Supportive Measures*.

- i. *No Contact Orders*. Supportive Measures may also include "No Contact Orders" which prohibit the recipient of such an order from having any contact, whether directly, indirectly, or through third parties, with specific individuals for a period of time.
  - a. "Contact" includes but is not limited to email, social media, instant messaging, text messaging, phone calls, voicemail, or face-to-face

contact. Unintentional contact is not considered a violation of the No Contact Order.

- b. Individuals are encouraged to report violations of No Contact Orders promptly to the Title IX Coordinator. Alleged violations of the No Contact Order may result in disciplinary action.
- c. No Contact Orders are separate and distinct from court actions, such as Protective Orders and Restraining Orders. Questions about these should be directed to local law enforcement.

ii. *Interim Suspension of Students.*

- a. The Dean of Students or designee has the sole discretion to place a student on interim suspension and to determine the conditions of such suspension. Prior to placing a student on suspension, the Dean of Students or designee shall perform an individualized safety and risk analysis. In the event the Dean of Students or designee determines that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations contained in the Complaint, the Dean of Students or designee may place the student on interim suspension.
- b. Notice of interim suspension will be provided to the student in writing. Upon receipt of such notice, the student will be expected to vacate University property immediately in accordance with the terms of the interim suspension.
- c. The student may petition the Dean of Students or designee for reinstatement within five (5) Calendar Days of receiving notice of the interim suspension. This petition must be made in writing and must articulate why the student does not pose a significant risk of substantial harm to the safety or security of others in the campus community. The Dean of Students or designee may choose to uphold the interim suspension, modify its terms, or lift it entirely.
- d. Failure to comply with the terms of an interim suspension may result in further disciplinary action.

iii. *Interim Suspension of Staff.*

- a. The Director of Human Resources or designee has the sole discretion to place a staff member on interim suspension and to determine the terms of such suspension. Prior to placing a staff member on suspension, the Director of Human Resources or designee shall perform an individualized safety and risk analysis. In the event the Director of Human Resources or designee determines that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations contained in the Complaint, the Director of Human Resources or designee may place the staff member on interim suspension.
- b. Notice of interim suspension will be provided to the staff member in writing. Upon receipt of such notice, the staff member will be expected to vacate University property immediately in accordance with the terms of the interim suspension.
- c. The staff member may petition the Director of Human Resources or designee for reinstatement within five (5) Calendar Days of receiving notice of the interim suspension. This petition must be made in writing and must articulate why the staff member does not pose a significant risk of substantial harm to the safety or security of others in the campus community. The Director of Human Resources or designee may choose to uphold the interim suspension, modify its terms, or lift it entirely.
- d. Failure to comply with the terms of an interim suspension may result in further disciplinary action.

iv. *Interim Suspension of Faculty.*

- a. The Provost or designee has the sole discretion to place a faculty member on interim suspension and to determine the terms of such suspension. Prior to placing a faculty member on suspension, the Provost or designee shall perform an individualized safety and risk analysis. In the event the Provost or designee determines that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations contained in the Complaint, the Provost or designee may place faculty member on interim suspension.

- b. Notice of interim suspension will be provided to the faculty member in writing. Upon receipt of such notice, the faculty member will be expected to vacate University property immediately in accordance with the terms of the interim suspension.
- c. The faculty member may petition the Provost or designee for reinstatement within five (5) Calendar Days of receiving notice of the interim suspension. This petition must be made in writing and must articulate why the faculty member does not pose a significant risk of substantial harm to the safety or security of others in the campus community. The Provost or designee may choose to uphold the interim suspension, modify its terms, or lift it entirely.
- d. Failure to comply with the terms of an interim suspension may result in further disciplinary action.

v. *Interim Removal of Visitors from University Facilities.*

- a. The Dean of Students or designee has the sole discretion to direct that a visitor be removed from the University's campus and to determine the conditions of such removal. Prior to removing the visitor, the Dean of Students or designee shall perform an individualized safety and risk analysis. In the event the Dean of Students or designee determines that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations contained in the Complaint, the Dean of Students or designee may require the removal of the visitor.
- b. Notice of the removal will be provided to the visitor in writing, to the extent possible. Upon receipt of such notice, the visitor will be expected to vacate University property immediately.
- c. The visitor may petition the Dean of Students or designee for reinstatement within five (5) Calendar Days of receiving notice of removal. This petition must be made in writing and must articulate why the visitor does not pose a significant risk of substantial harm to the safety or security of others in the campus community. The Dean of Students or designee may choose to uphold the removal, modify its terms, or lift it entirely.

- d. Failure to comply with the terms of the removal may result in further disciplinary actions or other protective measures as permitted under applicable law.

vi. *Interim Removal of Other Third-Parties from University Facilities.*

- a. The Deciding Official appointed by the Title IX Director for Complaints relating to all other third parties (including but not necessarily limited to contractors, vendors, and volunteers) has the sole discretion to direct that such third party be removed from the University's campus and to determine the conditions of such removal. Prior to removing the third party, the applicable Deciding Official or designee shall perform an individualized safety and risk analysis. In the event the applicable Deciding Official or designee determines that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations contained in the Complaint, the applicable Deciding Official or designee may require the removal of the third party.
- b. Notice of the removal will be provided to the third party in writing, to the extent possible. Upon receipt of such notice, the third party will be expected to vacate University property immediately.
- c. The third party may petition the applicable Deciding Official or designee for reinstatement within five (5) Calendar Days of receiving notice of removal. This petition must be made in writing and must articulate why the visitor does not pose a significant risk of substantial harm to the safety or security of others in the campus community. The applicable Deciding Official or designee may choose to uphold the removal, modify its terms, or lift it entirely.
- d. Failure to comply with the terms of the removal may result in further disciplinary actions or other protective measures as permitted under applicable law.

**VIII. Requests for No University Action**

a. Complainant Requests. A Complainant may request that the University take no action in response to a report of Sexual Misconduct. The University will generally work to honor Complainant's wishes but will evaluate such requests on a case-by-case basis. If it is determined by the Title IX Coordinator that signing a Formal Complaint on behalf of the Complainant is not clearly

unreasonable in light of the known circumstances, the Title IX Coordinator shall sign the Complaint and initiate the Formal Resolution process.

b. Requests Made to Responsible Employee. All Responsible Employees are required to disclose a report of Sexual Misconduct, even if the individual reporting the misconduct requests no action be taken. In such a situation, the Responsible Employee is required to report the allegations, but shall also advise the Title IX Coordinator of the reporting individual's request that no action be taken.

c. Determining Factors. The University will decide whether to honor Complainant's wishes based on the following factors:

1. The seriousness of the alleged conduct;
2. The Complainant's age;
3. Information indicating a pattern of behavior by the Respondent;
4. Aggravating circumstances such as the use of a weapon, force, threats, intimidation, multiple assailants, etc.; and/or
5. Other risks to the University community.

d. Notice of Decision. Complainant will be notified in writing of the University's decision.

## **IX. Notice Requirements Upon Filing of a Formal Complaint**

a. Notice to be Provided to Known Parties. Within ten (10) Business Days of the receipt of a Formal Complaint, the Title IX Coordinator shall provide written notice to the parties that are known. Said notice shall contain, at a minimum, the following:

1. A description of the Informal and Formal Resolution procedures contained within this Policy;
2. A description of the alleged Sexual Misconduct including sufficient factual details to the extent known at the time notice is provided, and which shall include, but not necessarily be limited to: (i) the identities of the parties involved in the incident, if known; (ii) the conduct allegedly constituting Sexual Misconduct; (iii) and the date and location of the alleged incident, if known;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility shall be made at the conclusion of the Formal Resolution process;
4. A statement that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney;

5. A statement that the parties may inspect and review evidence collected during the investigation.

b. Notice of Additional Investigation. In the event additional allegations are brought forth with respect to either the Complainant or Respondent, the Title IX Coordinator shall provide notice of such additional allegations in compliance with Section IX.

**X. Statement of Fair and Equitable Process**

1. Until such time as a determination of responsibility is made by the Deciding Official, the Respondent shall be presumed to be not responsible for the alleged violation of this Policy.

2. The Title IX Coordinator, Investigator(s), Deciding Official, or any person designated by the University to facilitate the Informal and/or Formal Resolution shall not have a conflict of interest or bias for or against complainants or respondents generally, or to the individual Complainant or Respondent.

3. The University shall ensure that the Title IX Coordinator, Investigator(s), Deciding Official, or any person designated by the University to facilitate the Informal and/or Formal Resolution process are trained on the definition of sexual harassment, the scope of the University’s education program or activity, how to conduct an investigation and grievance process, and the informal resolution process as applicable. The University shall further ensure such individuals are informed on how to serve impartially, including avoiding prejudgments of the facts at issue, conflicts of interest, and bias.

4. The chart below identifies the designated officials, by role, who shall be responsible for the administration of this policy in the event of a conflict of interest or other matter that prevents the assigned administrator from adequately performing their duties:

| <b>Administrator Role</b>   | <b>Designee</b>                              |
|-----------------------------|--|
| President                   | Vice President, Government and Legal Affairs |
| Title IX Coordinator        | Dean of Students                             |
| Dean of Students            | Associate Dean                               |
| Provost                     | Assistant Provost                            |
| Director of Human Resources | Vice President, Government and Legal Affairs |

In the event a designee identified above is disqualified from serving as a result of a conflict of interest or is otherwise unable to perform the duties associated with the role, a trained, non-conflicted individual internal or external to the University shall be appointed by the Title IX Coordinator. In

those situations where the Title IX Coordinator has a conflict or is otherwise unable to make such an appointment, the Vice President of Government and Legal Affairs shall appoint the designee.

5. Deciding Officials shall be specifically trained in the use of technology utilized during live Hearings and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

6. For any participant in the process outlined in this Policy that requires disability-related accommodation to fully participate, the University will make all reasonable efforts to provide appropriate accommodations. Such requests will be evaluated on a case-by-case basis and in a manner that is consistent with current University practices for evaluation of reasonable accommodation requests.

7. The burden of proof and the burden of gathering evidence to reach a determination regarding responsibility shall rest upon the University and not upon the parties. The foregoing notwithstanding, the parties shall cooperate with the University in its efforts to obtain relevant evidence relating to the Formal Complaint. Unless the University obtains written consent from the affected party, it may not access, consider, disclose, or otherwise utilize a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional.

8. The parties shall be given equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

9. The University shall not restrict the ability of either party to discuss the allegations under investigation or gather and present relevant evidence as long as such discussions are not designed to retaliate against any individual who participates or refuses to participate, in the processes under this Policy. The foregoing notwithstanding, the University emphasizes that while discussion of the allegations under investigation is not restricted, all individuals involved in the processes under this Policy are required to maintain the confidentiality of information that does not consist of the specific allegations under investigation. Examples of such information include evidence collected during the investigation and/or exchanged between the parties, the investigation reports, written notices, or other similar documentation or information.

10. Complainant and Respondent may each select one Advisor of their choice who may, but is not required to be an attorney. This Advisor may be internal or external to the University. The Advisor may not serve as a witness in the matter, nor may they be someone whose University responsibilities create a conflict of interest (e.g., someone who has a role in the procedures set forth under this Policy). The role of the Advisor in Informal and Formal Resolution procedures is more thoroughly described below.

11. For all individuals whose participation is invited or expected, the University shall provide them with written notice of the date, time, location, participants, and purposes of all Hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

12. The University reserves the right to modify the procedures set forth throughout this Policy to provide for, in its sole determination, the equitable treatment of Complainant and Respondent.

## **XI. Informal Resolution**

a. Request. Upon the filing of a Formal Complaint, the Complainant may request that the Complaint be resolved informally through mediation. Mediation is a voluntary process and will be conducted in a prompt and equitable manner. The informal resolution process is not available in the following instances: (i) where allegations of Sexual Violence have been made; (ii) complaints of Sexual Misconduct that involves University employees or members of the faculty; and (iii) in the event Complainant files an Informal Complaint.

b. Utilization of Mediation. The Title IX Coordinator will determine if mediation is appropriate based on the conduct at issue and the written agreement of Complainant and Respondent. The University will not require a Complainant to participate in mediation nor will the Complainant be required to work out the allegations of the Formal Complaint with the Respondent directly.

c. Appointment of Mediator. The Title IX Coordinator will appoint a mediator to talk to each party about possible resolutions and remedies.

d. Procedures Applicable to Mediation.

1. The Title IX Coordinator will keep records of any resolution that is reached. Failure to abide by the agreement may result in disciplinary action.

2. Mediation does not require the parties to be in the same room at the same time working to resolve the report. Rather, the mediator may work with each party separately toward a mutually agreeable resolution.

3. Mediation can take place at any point in time after a Formal Complaint is made but should typically be completed within thirty (30) Calendar Days of the Formal Complaint.

4. Anyone participating in mediation can stop that process at any time and request a Formal Resolution of the allegations.

5. In the event an agreement is reached, the parties will be foreclosed from pursuing the Formal Resolution process.

6. Except for good cause shown, the Informal Resolution process shall be completed within sixty (60) Calendar Days of receipt of the Formal Complaint.

e. Advisors. Complainant and Respondent may each select one Advisor of their choice, who may be, but is not required to be an attorney. This Advisor may be internal or external to the University. The Advisor may not be someone whose University responsibilities create a conflict of interest. Advisors are permitted to be present in all phases of the informal resolution but may not participate directly. The Advisor may whisper or write notes to their advisee, but they may not interrupt, speak on behalf of the Complainant/Respondent, or otherwise interfere. If an Advisor violates these parameters, the Advisor's participation may be limited.

## **XII. Formal Resolution Procedures**

a. Formal Resolution. Either a Complainant or a Respondent may request that a report of Sexual Misconduct be resolved formally. The University may also determine that it is necessary to move forward with the formal resolution process outside of Complainant's wishes in the event the Title IX Coordinator determines that signing a Formal Complaint is not clearly unreasonable in light of the known circumstances. The first step of the Formal Resolution process is the Investigation.

b. Investigations.

1. *Appointment of Investigator.* The Title IX Coordinator will appoint an Investigator to conduct a thorough, impartial, and equitable investigation of the report. The Investigator may be internal or external to the University and must be appropriately trained to conduct sexual misconduct investigations.

2. *Notice of Appointment.* Once an Investigator has been appointed, the Title IX Coordinator will notify each party in writing. Complainant and Respondent each have the opportunity to challenge the appointment of the Investigator for lack of impartiality. This challenge must be submitted to the Title IX Coordinator in writing within ten (10) Calendar Days of notice of the appointment and must include a justification. The Title IX Coordinator will evaluate the challenge and determine whether it would be appropriate to appoint an alternate Investigator. Each party will be notified when a challenge is submitted and will be advised of the outcome of the challenge.

3. *Advisors.* Complainant and Respondent may each select one Advisor of their choice. This Advisor may be internal or external to the University. The Advisor may not be someone whose University responsibilities create a conflict of interest. Advisors are permitted to be present in all phases of the Formal Resolution but may not participate directly. The Advisor may whisper or write notes to their advisee, but they may not interrupt, speak on behalf of the Complainant/Respondent, or otherwise interfere. If an Advisor violates these parameters, the

Advisor's participation may be limited. The foregoing limitations on the participation of the Advisor shall not apply to the Hearing.

4. *Investigation Timeline.* The University aims to complete all investigations within a reasonable time period, which may be modified as necessary by the Title IX Coordinator. Delays may occur when the University is closed, during academic breaks, or for other good reason. The parties will be notified of any delay in or modification to the timeline, to the extent that it is possible if the Investigation and decision-making process will take more than ninety (90) Calendar Days.

5. *Consolidation of Investigation.* The Title IX Coordinator has the discretion to consolidate multiple reports into one Investigation if the evidence related to each incident would be relevant in reaching a determination in the other incident. In the event such consolidation occurs, the Title IX Coordinator shall provide the parties with notice as set required under Section IX.

6. *Investigation Procedures.*

- i. The Investigator will conduct the investigation in an appropriate manner in light of the circumstances of the case. Complainant and Respondent will each be provided the opportunity to meet with the Investigator separately. Should a party choose not to provide information to the Investigator, the investigation will proceed without the benefit of their participation.
- ii. Each party will also be afforded the opportunity to identify witnesses and to submit documentary and other evidence which are relevant to the allegations contained in the Formal Complaint.
  - a. The Investigator will make a good faith effort to contact and interview each witness they have determined to be relevant to the investigation;
  - b. Witnesses who can only speak to the character of a party are not considered to be relevant;
  - c. Should a witness choose not to respond to outreach or provide the Investigator with information, the investigation will proceed without the benefit of their participation;

- iii. The Investigator has discretion to meet with any additional witnesses and review any additional documentation they determine to be relevant to the alleged incident. This includes but is not limited to:
  - a. Consultation with experts;
  - b. Site visits;
  - c. Review of police reports and related documentation.

7. *Review of Evidence Obtained in the Investigation.* Prior to the conclusion of the Investigation, the Investigator shall provide to the Title IX Coordinator copies of all evidence obtained from the Investigation. The Coordinator shall then send to the Complainant and Respondent, and their Advisors, if any, a copy, in electronic or written form, of the evidence, including any evidence upon which the University does not intend to rely upon in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence obtained from a party or other source. The parties shall have ten (10) Calendar Days after a copy of such evidence is provided to them in which to submit a written response to the to the Title IX Coordinator. Within ten (10) Business Days after the expiration of the response deadline, the Coordinator will submit the responses received to the Investigator who will then prepare the Final Investigation Report.

8. *Final Investigation Report.* At the end of the final response period, the Investigator will prepare a Final Investigation Report. The report shall fairly summarize all the relevant evidence, and shall include the following:

- i. Summaries of the Investigator's meetings with Complainant, Respondent, and witnesses;
- ii. Descriptions of the documentation submitted by the parties and/or obtained by the Investigator;
- iii. Parties' responses to the evidence obtained during the Investigation;
- iv. Identification of material facts in dispute and material facts not in dispute;
- v. Definitions of prohibited conduct and related terms under this Policy that the Investigator has determined to be relevant to the case;
- vi. An appendix containing all raw materials gathered in the investigation (e.g., incident reports, documentation submitted by the parties, etc.)

c. Review of Final Investigation Report. No less than twenty (20) Business Days prior to the Hearing required by Section XII(d), the Title IX Coordinator shall provide a copy of the Final Investigation Report to each party, and their Advisors, if any, in either an electronic format or a hard copy, for their review and written response. In addition, the Title IX Coordinator shall provide to the parties the date upon which the Hearing shall be conducted. Any written responses to the Final Investigation Report must be submitted to the Title IX Coordinator within ten (10) Business Days of the Hearing. The Title IX Coordinator shall, within seven (7) days of the Hearing provide the appropriate Deciding Official with the Final Investigation Report along with the parties' responses thereto, if any.

d. Hearings.

1. *General Provisions*

- i. In all cases in which a Formal Complaint has been filed and has not otherwise been withdrawn, dismissed or resolved informally, the University is required by the applicable Title IX regulations issued by the Department of Education to hold a live Hearing ("Hearing").
- ii. The Hearing shall take place no less than twenty (20) Business Days after a copy of the Final Investigation Report has been provided to the parties and their advisors, if any.
- iii. Each party is required to be accompanied to the Hearing by an Advisor of their choice who may be but is not required to be, an attorney. In the event a party does not have an Advisor present at the Hearing, the University shall provide one at no cost. Parties are encouraged to inform the Title IX Coordinator in advance of the Hearing as to whether they will have an Advisor present, or whether they require the University to provide one.
- iv. The audio of the proceedings that occur during the Hearing shall be recorded. The audio recording shall be maintained by the Title IX

Coordinator and either Complainant and/or Respondent may request to schedule an appointment for the purpose of inspection and review.

- v. At the request of either party, the University shall provide for the live Hearing to occur with the parties located in separate rooms with technology enabling the Deciding Official and the parties to simultaneously see and hear the party or witness answering questions.
- vi. Information related to the sexual history of either party will not be considered, except in the limited circumstance where information related to the sexual history between the parties may be relevant to the determination of consent. In that circumstance, sexual history between the parties may be considered only with regard to patterns of communicating and obtaining consent. Consent will not be assumed based solely on evidence of any prior or subsequent sexual history.
- vii. Evidence of sexual or other relevant behavior so distinctive and so closely resembling either party's version of the alleged encounter as to tend to prove a material fact, including whether consent was sought or given, may be considered. Where there is evidence of a pattern of similar conduct, either before or after the conduct in question, this information may be deemed relevant to assessing the credibility of the parties.
- viii. Information related to the prior misconduct of either Complainant or Respondent will not be considered relevant to the investigation. Respondent's prior misconduct may be considered only if it becomes necessary to assign a sanction.

## *2. Procedures for a Sexual Misconduct Hearing*

- i. Prior to the Hearing, the Deciding Official shall review the Formal Complaint, Final Investigation Report, and any responses thereto.
- ii. The live Hearing will be solely for the purpose of allowing the parties' Advisors to cross-examine the other party and any witnesses to all relevant questions and follow-up questions.
- iii. Neither the Complainant nor the Respondent may ask a question of the other party or witness during the Hearing. All questions must be directed through a party's Advisor.

- iv. Prior to any party or witness answering a question posed by an Advisor, the Deciding Official shall first determine whether the question is relevant and decide whether the party to whom the question is posed may reply.
- v. In the event the Deciding Official determines the question is not relevant, the Deciding Official must state on the record the basis upon which the question is being excluded.

e. Determination of Outcome

1. Following the Hearing the Deciding Official shall consider the Final Investigation Report, associated evidence, the responses of the parties, statements of witnesses, and the testimony of those individuals that participate in the Hearing.
  - i. In the event an individual refuses to participate in the Hearing the Deciding Official shall not rely upon any statement of that individual in reaching a determination.
  - ii. In addition, the Deciding Official may not draw an inference about the determination regarding responsibility based solely upon a party's or witness's absence from the live Hearing or refusal to answer cross-examination or other questions.
2. Within thirty (30) Business Days of the Hearing, the Deciding Official shall issue a written determination regarding responsibility using the Preponderance of the Evidence Standard. The Complainant and Respondent shall be provided a copy of the written determination simultaneously.
3. The written determination shall include, at a minimum, the following:
  - i. Identification of the allegations potentially constituting Sexual Misconduct;
  - ii. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including (a) all notifications to the parties; (b) interviews with the parties and witnesses; (c) site visits; (d) methods used to gather other evidence; and (e) Hearings held;
  - iii. Findings of fact that support the determination;

- iv. Conclusions regarding the application of this Policy to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on Respondent, and whether remedies designed to restore or preserve equal access to the University's education program will be provided to the Complainant; and
- vi. A copy of the appeal procedures set forth in Section XII(g), along with the permissible bases for appeals, and the date upon which an appeal would no longer be considered timely.

f. Sanctions. The sanctions set forth under this Section XII(f) shall only be implemented if, after the Hearing is completed, and the Respondent is found responsible for the alleged Sexual Misconduct utilizing the Preponderance of the Evidence Standard.

- 1. If Respondent is found responsible, appropriate sanctions and/or remedies will be assigned. Factors considered when assigning sanctions include but are not limited to:
  - i. Aggravating and mitigating circumstances,
  - ii. Respondent's conduct history,
  - iii. The need for the sanctions/remedies to:
    - a. Bring an end to the misconduct,
    - b. Prevent the future recurrence of the misconduct, and/or
    - c. Remedy the effects of the misconduct on the Complainant and the campus community.
- 2. Sanctions: Students
  - i. Standing Sanctions
    - a. The following sanctions impact a student's standing with the University. When a student is found responsible for violating this Policy, one of the following standing sanctions must be assigned:
      - i. **Warning Letter:** A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions or remedial actions.
      - ii. **Probation:** A written reprimand providing for more severe conduct sanctions in the event that the student or

organization is found in violation of any University policy, procedure, or directive within a specified period of time.

- iii. **Suspension:** Termination of student status for a definite period of time, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their time at the University. This sanction will not be noted on the student's official transcript.
- iv. **Dismissal:** Permanent termination of student status, revocation of rights to be on campus for any reason or to attend University-sponsored events. This sanction will be noted on the student's official transcript.
- v. **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 if the student has a report pending, or as a sanction if the student is found responsible for an alleged violation while a student.

ii. Only one standing sanction may be assigned in a case.

iii. Standing sanctions are assigned progressively. If a student has been assigned a standing sanction previously, the standing sanction for any subsequent violation(s) of this Policy must be greater, absent mitigating circumstances.

iv. Educational Outcomes

- a. For every standing sanction except dismissal, educational outcomes may be assigned. These outcomes may include, but are not limited to:
  - i. Restitution
  - ii. Assessment by a licensed psychologist, physician or healthcare provider
  - iii. Exclusion from co-curricular activities
  - iv. No Contact Order

### 3. Sanctions for Employees

- i. When an employee is found responsible for violating this Policy, one of the following sanctions must be applied:

- a. **Warning Letter:** A warning is a formal method of informing an employee of a violation of University rules, guidelines, and/or policies. Additional violations will initiate the progressive disciplinary process.
- b. **Demotion:** A reduction in rank or status.
- c. **Suspension with pay:** Temporary removal of an employee from performing their work duties.
- d. **Suspension without pay:** Temporary removal of an employee from performing their work duties and from receiving pay.
- e. **Termination:** If the nature of the violation is so problematic and/or harmful to the campus community that a warning or a suspension is not appropriate, the University's recommendation will be to terminate employment.
- ii. Other sanctions/remedies that the Title IX Coordinator may deem appropriate.

4. Sanctions for Contractors and Visitors

- i. When a contractor or visitor is found responsible for violating this Policy, one of the following sanctions must be applied:
  - a. **Warning Letter:** A warning is a formal method of informing a contractor or visitor of a violation of University rules, guidelines, and/or policies.
  - b. **Trespass:** Individuals or groups may be formally banned or trespassed from University property or sponsored events.
  - c. **Termination:** Contractor agreement may be terminated.
  - d. Other sanctions/remedies that the Title IX Coordinator may deem appropriate.

5. Failure to Complete Sanctions. Respondent's failure to complete sanctions (or remedies and corrective actions) by the date specified may result in further disciplinary action.

g. Appeals

- 1. Either party may appeal the Deciding Official decision to the University President.
- 2. All appeals must be submitted in writing to the President or designee within seven (7) Calendar Days of the delivery of written notice of outcome. The written appeal must include explanation of the grounds for such appeal.

3. Grounds for appeals are limited to the following:
  - i. Procedural error or omission that impacted the outcome of the case;
  - ii. Availability of new information that could impact the outcome of the case. This evidence must not have been available at any point during the process prior to appeal; and/or
  - iii. The existence of a conflict of interest or bias of the Title IX Coordinator, Investigator, or Deciding Official which affected the outcome of the case.
4. Within ten (10) Business Days of receipt of an appeal, the President shall provide written notice to the non-appealing party that an appeal has been filed. The content of the appeal shall not be shared with the non-appealing party unless the President determines, in accordance with Section XII(g)(5), what, if any, issues the appeal will move forward upon.
5. The President will then review the appeal request to determine whether it is: (1) timely; and (2) based on one of the grounds listed in Section XII (g)(3). If the appeal fails to meet these criteria, it will not go forward, and the original outcome will stand. If part, but not all, of an appeal meets the criteria, only the appealable issues will move forward. Any non-appealable issues will be redacted from the appeal before it is shared.
6. The President will provide written notice to both parties as to whether the appeal will move forward and the issues upon which the appeal will be based. The notice of initial determination shall describe the rationale for the result, and shall be provided simultaneously to both parties within thirty (30) Business Days after notice of the appeal is provided to the non-appealing party.
7. If any portion of the appeal moves forward, the other party will be provided the opportunity to review the appeal and submit a written response. A response must be submitted to the President or designee within seven (7) Calendar Days of the delivery of notice of the initial appellate determination.
8. Appeals are not intended to be a full rehearing of the case. The President's analysis will be confined to review of the evidence and issues alleged by the appealing party to have impacted or affected the outcome of the case. In making a decision regarding the appeal, the President may select one of the following outcomes:

- i. Uphold the original finding of responsibility and/or original assignment of sanction(s), or
- ii. Set aside the original finding and:
  - a. Impose a new decision regarding responsibility and/or sanctions, OR
  - b. Send the case back to an Investigator or Deciding Official, or designee for further review.

9. The President will provide simultaneous notice of the outcome of the appeal to each party within thirty (30) Business Days of the initial appellate determination. The notice shall describe the result of the appeal along with the supporting rationale for the result.

10. The decision by the President or designee is final and there will be no further appeals.

h. Withdrawal or Resignation while a Complaint is Pending

- i. Should a Respondent withdraw from the University while a case is pending, that case may continue.
  - a. Respondent may continue to participate in the case. If they choose not to participate, the case will proceed without the benefit of their participation.
  - b. Respondent's ability to return to the University will depend on the outcome of the case. In cases where there is a responsible finding and the standing sanction assigned is dismissal, Respondent will not be permitted to return. In cases where there is a responsible finding and the standing sanction is anything less than dismissal, Respondent will not be permitted to return unless all sanctions and educational outcomes have been satisfied.

- ii. Should a Complainant withdraw from the University while a case is pending, the case may continue.

**XIII. Limited Immunity**

a. The University seeks to remove any barriers to reporting Sexual Misconduct or participating in an Investigation. Any student, whether the Complainant or a witness, who makes a report of Sexual Misconduct or participates in an Investigation will generally be offered immunity from being disciplined for policy violations related to the personal ingestion of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of any person at risk. The University may encourage educational or therapeutic remedies for those individuals.

b. This limited immunity does not protect any student organization from discipline if information is learned through the course of an Investigation.

#### **XIV. Prohibition on Retaliation**

a. Any attempt by faculty, administrators, support staff, or students to Retaliate against an individual who exercises the rights granted to them under this Policy is prohibited and subjects the one who has Retaliated to possible disciplinary action, up to and including termination and/or removal from the University.

b. Even where there is a finding of Not Responsible, retaliation is prohibited. A good-faith pursuit of civil, criminal, or other legal action, even in response to an initial report under this Policy, does not constitute retaliation.

c. Individuals who experience Retaliation are encouraged to report the retaliatory conduct as soon as possible. Reports of Retaliation shall be administered in accordance with the Formal Resolution procedures under this Policy. An individual can request no University action. Individuals should note that the University's ability to effectively investigate alleged acts of Retaliation may be limited as time passes.

d. Reports of Retaliation may be consolidated into an ongoing Investigation at the discretion of the Title IX Coordinator.

e. It is a violation to file a knowingly false or malicious complaint of an alleged violation of this Policy. Such misconduct subjects the one who has filed a false or malicious Complaint or report to possible disciplinary action, up to and including termination/expulsion and removal from University premises.

#### **XV. Records.**

The University shall maintain the following records relating to the implementation of this Policy for a period of seven (7) years:

- a) Records relating to any Investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript;

- b) Any disciplinary sanctions imposed on the Respondent;
- c) Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
- d) Any appeal and the result therefrom;
- e) Any informal resolution and the result therefrom; and
- f) All materials used to train Title IX Coordinators, Investigators, the Deciding Official, and any person who facilitates an informal resolution process;
- g) Records relating to any actions or the underlying basis for not taking action, including Supportive Measures, in response to a report or Formal Complaint under this Policy.