

Quinnipiac

UNIVERSITY

Quinnipiac University Sexual Harassment, and Discrimination Response and Prevention Policy¹

I. Statement of Purpose

- A. Statement of Nondiscrimination: Quinnipiac University (hereinafter, “the University”) does not discriminate on the basis of sex and prohibits sex discrimination including harassment in any education program or activity that it operates. Discrimination on the basis of sex includes discrimination on the basis of gender, sex and gender stereotypes, and sex and gender characteristics, and any of the prohibited conduct defined in this Policy.
- B. Statement of Purpose: The purpose of this Policy is to provide procedures and protocols for the investigation and adjudication (grievance procedures) of reported prohibited conduct and behavior within the University’s education program and activities, including admissions and employment, and to create policies and procedures for the prevention of prohibited conduct.

II. Jurisdiction and Scope

- A. Effective Date: This effective date of this Policy is August 1, 2024. For alleged incidents prohibited conduct occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply.
- B. Existing Codes of Conduct: This Policy is a supplement to, and part of any existing University policies governing student, employee, staff, and faculty conduct and behavior. Where any such policies contain terms or provisions that are inconsistent with any term or provision of this Policy, the University deems this Policy to be controlling and applicable, except as set forth below. Where no such Policies exist, this Policy shall be controlling.
 - a. Bargaining Unit Employees: For employee and staff respondents who are members of a bargaining unit, the processes set forth in this Policy--and sanctions administered for violations of this policy—shall be applied and

¹ Last Modified February 17, 2025

implemented in a manner consistent with applicable contractual provisions regarding discipline and termination, or as relevant to any interim action.

- b. Faculty: This Policy is applicable to faculty. Where the Faculty Handbook contains terms or provisions that are inconsistent with any term or provision of this Policy, the University deems this Policy to be controlling and applicable. Where the Faculty Manual is silent as to any term or provision, this Policy shall be controlling.

C. Title IX Coordinator: The Title IX Coordinator shall be primarily responsible for implementation of the terms and provisions of this Policy including but not limited to:

1. Coordinating the University's Title IX compliance processes, protocols, training, and programs;
2. Conduct, or have oversight responsibility for, investigations of reports and complaints of prohibited conduct and any student or employee code of conduct violations related to or associated with reports and complaints of prohibited conduct as defined by this Policy.
3. Delegation to Designees: As appropriate, the Title IX Coordinator may delegate specific duties to one or more designees.

D. Individual Applicability: This Policy is applicable to all students, employees, staff members, and faculty of the University.

1. Dual status parties: When a respondent is both a student and an employee, the Title IX Coordinator or their designee shall make a fact specific inquiry to determine whether the requirements of this Policy apply to the respondent in their status as an employee or student. In making this determination, the Title IX Coordinator or their designee shall:
 - a. Consider whether the party's primary relationship with the University is to receive an education, and
 - b. Whether the alleged prohibited conduct occurred while the party was performing employment related work.
2. Where a student, employee, staff member, or faculty member (hereinafter, "affiliate") is alleged to have engaged in conduct or behavior prohibited by this Policy, and the individual impacted by the alleged behavior is not a University affiliate, the University may take disciplinary action against the affiliate pursuant to this Policy or the applicable code of conduct (e.g., student code of conduct, conduct policies applicable to employees) or other University policy where the Title IX Coordinator or their designee, Director of Student Conduct, or Chief of Public Safety concludes that undertaking an investigation and, if applicable, disciplinary action is in the University's substantial interest including, without limitation:

- a. Any action that constitutes a criminal offense as defined by the law of any state or federal law.
- b. Any situation in which it is determined that the affiliate poses a serious threat to the health or safety of any student, employee, staff member, or faculty member, or other individual.
- c. Any situation that significantly impinges upon the rights, property, or achievements of others.
- d. Any situation that breaches the peace and/or causes social disorder.
- e. Any situation that substantially interferes with the University's educational interests or mission.

E. Jurisdiction: Pursuant to Title IX of the Amendments to Civil Rights Act of 1972, this Policy applies to the University's education programs and activities defined as including locations, events, or circumstances in which the University exercises substantial control over both the respondent and the context in which the conduct occurred, circumstances where the University has disciplinary authority over the respondent, and to alleged misconduct occurring within any building owned or controlled by a University-recognized student organization.

1. *Off Campus Generally*: This Policy is applicable to the impacts of alleged prohibited behavior occurring off-campus where complainant and respondent are both affiliates of the University and under the jurisdiction of the Code of Student Conduct, the Human Resources Policy Manual, or other University policy. Additionally, this Policy is applicable to the impacts of alleged prohibited behavior occurring off-campus that if true would limit or deny a complainant's access to the University's education program or activities or where the alleged prohibited behavior impacts a substantial interest of the University. For purposes of this Policy, "off-campus" shall include behavior alleged to have occurred on-line and remotely via electronically facilitated medium or application. A substantial University interest includes without limitation:

- a. Any action that constitutes a criminal offense as defined by Connecticut, federal law, or the laws of the state where the prohibited behavior is alleged to have occurred. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- b. Any situation in which it is determined pursuant to the protocols indicate below, that a respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
- c. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.

- d. Any situation that substantially interferes with the University's educational interests or mission.
 2. *United States*: This Policy applies to the University's education programs and activities where the alleged prohibited conduct occurred in an educational program or activity taking place in the United States including, without limitation, conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the University.
 3. *Outside of the United States*: This Policy applies to the University's education programs and activities where some of the alleged prohibited conduct, including alleged creation of hostile environment, occurred outside of the University's programs or activities or outside of the United States, if the University has a means of control over the respondent and where the impacts of the alleged prohibited behavior would limit or deny a complainant's access to the University's education program or activities.
 4. *Student Code of Conduct*: This Policy applies to the University's education programs and activities where the University would have jurisdiction over the respondent through the Student Code of Conduct regardless of where the alleged prohibited conduct occurred.
 5. *Faculty and Staff Respondents*: This Policy applies to the University's education programs and activities where the University would have jurisdiction over the respondent pursuant to policies and procedures of the University's Human Resources Office and bargaining and labor agreements and employment contracts between the University and a respondent.
 6. *Investigation Jurisdiction*: The University, through and by its Title IX Coordinator, in collaboration with any offices or departments within the University that the Title IX Coordinator deems appropriate and necessary, shall investigate reports and complaints of conduct and behavior prohibited by this Policy pursuant to the procedures set forth herein.
- F. Unknown and Unaffiliated Respondents: If a respondent is unknown or is not affiliated with the University community, the Title IX Coordinator or their designee will offer to assist a complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The Title IX Coordinator or their designee may also assist in contacting local or institutional law enforcement or external government agency if the

individual would like to file a police or other report about alleged conduct and assist in contacting a court or external agency for the purpose of seeking a civil restraining order.

1. Upon being made aware of an incident of alleged prohibitive behavior involving an unknown or unaffiliated respondent, the Title IX Coordinator, their designee, the Department of Public Safety, and any University employee, staff member, or faculty member should make efforts to preserve any materials or information (e.g., security camera footage, reports, statements) in the possession of the University that may aid in assisting to establish the identity of the respondent.
 2. When the respondent is enrolled in or employed by another institution, the Title IX Coordinator or their designee can assist the complainant in contacting the appropriate individual at that institution. Where another institution makes the University aware of allegations against a University student, staff, or faculty member made by an affiliate of another institution, the Title IX Coordinator or their designee may meet with such student and intervene in a manner consistent with the values and policies of the University.
- G. Cooperation and Assistance with Law Enforcement Agencies: Where it is deemed to be in the interests of the safety of an individual University affiliate or the campus community, and a respondent is not affiliated with the University, the Title IX Coordinator or their designee and members of the University's Department of Public Safety may assist external law enforcement agencies in the investigation of alleged prohibited conduct under this policy and share information with such agencies so long as it is consistent with the Family Educational Rights and Privacy Act (FERPA). Otherwise, criminal or civil process (e.g., subpoena) will be required to disclose to such agency any information protected by FERPA.
- H. Restraining/Protective Order: Where it is deemed to be in the interests of the safety of an individual University affiliated complainant or the campus community, and a respondent is not affiliated with the University, the Title IX Coordinator or their designee and members of the University's Department of Public Safety may assist a complainant in obtaining a civil restraining/protective order.
- J. Policy Modification: This Policy may be modified, amended, or supplemented by the Title IX Coordinator at any time as may be required by law or otherwise deemed necessary and in the University community's interests.

III. Prohibited Conduct Definitions

A. Sex-based harassment: a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including:

1. *Quid pro quo harassment*. An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
2. *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity offered by the University (*i.e.*, creates a hostile environment).
 - a. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - i. The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
 - ii. The type, frequency, and duration of the conduct;
 - iii. The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - iv. The location of the conduct and the context in which the conduct occurred; and
 - v. Other sex-based harassment in the University's education program or activity.

3. Specific Offenses

- a. *Sexual Assault*: An offense classified and defined by 20 U.S.C. 1092(f)(6)(A)(v) (the Clery Act), "dating violence" as defined in 34 U.S.C. 1229(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 1229(a)(30), or Connecticut Law and committed, *or attempted*, without affirmative consent or where affirmative consent cannot be given because of age, temporary incapacity, or permanent incapacity.
 - i. *Affirmative Consent*: "Affirmative consent" shall be defined as knowing, active, clear, mutual, and voluntary agreement by a

person to engage in sexual activity with another person. Consent can be communicated by words or actions so long as those words or actions create clear, unequivocal, permission regarding a willingness to engage in sexual activity. It is the responsibility of the initiator to obtain clear and affirmative consent at each stage of a sexual encounter. The definition of affirmative consent does not vary based upon sex, sexual orientation, gender identity, or gender expression.

- ii. Silence or lack of resistance does not constitute affirmative consent.
 - iii. Affirmative consent to one sexual activity or act does not constitute affirmative consent to subsequent sexual activity or acts.
 - iv. Past affirmative consent does not constitute ongoing affirmative consent.
 - v. Affirmative consent may be withdrawn at any time. If affirmative consent is withdrawn or can no longer be given, sexual activity must stop.
- b. *Incapacity to Consent*: Affirmative consent cannot be given when an individual lacks the ability to knowingly choose to participate in sexual activity of any kind. Incapacity to consent to sexual activity includes, without limitation, whether voluntary or owing to the influence of a drug or intoxicating substance administered to such person without their knowledge, unconsciousness, or physical helplessness occurs.
- i. *Unconsciousness and Physical Helplessness*: Affirmative consent cannot be provided when a person is unconscious, including being asleep, or for any other reason is physically unable to resist sexual activity or contact of any kind or to communicate unwillingness to an act of sexual activity or contact.
 - ii. *Intoxication*: Affirmative consent cannot be given when a person is intoxicated whether voluntary or owing to the influence of a drug or intoxicating substance administered to such person without their knowledge.
 - iii. *Incapacity by Reason of Age*: Persons who are below the age of consent as established by Connecticut law are incapable of giving affirmative consent under any circumstances.
 - iv. *Voluntary Intoxication of Respondent*: For purposes of any investigation and adjudication pursuant this Policy, the

voluntary intoxication of Respondent shall be deemed to be irrelevant to the absence or presence of affirmative consent.

- c. *Sexual Activity Without Affirmative Consent*: Committed or attempted sexual activity including, without limitation, vaginal sexual intercourse, anal sexual intercourse, oral sexual contact, the penetration of the anus or vagina with a foreign object including a body part, the penetration of the anus or vagina with a digit or digits, the touching of the penis, vagina, buttocks, or breasts, contact between a penis and the vagina, breasts, or buttocks whether over or under clothing, and kissing another person without affirmative consent.
- d. *Non-Consensual Failure to Use a Condom*: If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault. This includes the nonconsensual removal, tampering with, or damaging of a condom during sexual intercourse or immediately before sexual intercourse.
- e. *Dating Violence*: Violence or unlawful act committed by a person:
 - (A) Who is or has been in a social relationship of a romantic or intimate nature with the targeted individual; and
 - (B) where the existence of such relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship.
- f. *Domestic Violence*: Felony or misdemeanor crimes under Connecticut and Federal Law committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of Connecticut, or a person similarly situated to a spouse of the targeted individual;
 - ii. Is cohabitating, or has cohabitated, with the victim as spouse or intimate partner;
 - iii. Shares a child in common with the targeted individual; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of Connecticut.

- g. *Stalking*: Engaging in a course of conduct (i.e. two or more instances) directed at a specific person that would cause a reasonable person, from both an objective and subjective perspective, to:
 - i. Fear for the targeted person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

- h. *Sexual Exploitation*: Any act or attempted act which violates the sexual, bodily, or personal privacy of another or takes unjust or abusive sexual advantage of another without affirmative consent for their own benefit or for the benefit of anyone other than the person being exploited including, without limitation: observing or surveilling another person while such person is nude, engaged in sexual activity, using bathroom facilities, undressing, or bathing or showering in a location where a person would have a reasonable expectation of privacy; recording, photographing, disseminating through electronic or other means, displaying, viewing, streaming, distributing (including through sale) intimate or sexual images, audio recordings, or sexual information without the affirmative consent of all parties involved; exposing one's genitals or inducing another to expose their own genitals without affirmative consent; engaging in sexual activity including masturbation in the presence of another person or persons without consent; creating a website, social media account, or otherwise posting images of, or information concerning, another person's purported sexual activity or interests whether any such images are generated or created using electronic means; publishing or disseminating a person's private and personal information, whether actual or fictitious; engaging in sex trafficking defined as the act of recruiting, transporting, harboring, or providing a person for the purpose of engaging in sexual acts or conduct with another person in exchange for something of value including as part of any social event, initiation, or other event associated with a student organization including those that are recognized by the University and those that are not; engaging in conduct that is beyond the boundaries of affirmative consent during a sexual interaction such as slapping, striking, hitting, strangulation, binding, restraining, biting, or hair pulling; or creating, disseminating, or possessing images or recordings of child sexual abuse material.

- i. *Bullying or Endangerment on the on the Basis of Sex, Sex Stereotypes, Sex Characteristics, Pregnancy or Related Conditions, Sexual Orientation, and Gender Identity:* A course of conduct or a single instance of severe aggressive behavior, that is likely to intimidate a reasonable person (entailing both a subjective and objective perspective), or intentionally hurt, or control another person. Conducts which would constitute violations of this section include, without limitation: threatening or causing physical harm to another person; engaging in verbal, emotional, or psychological abuse; engaging in any conduct which threatens or endangers the health or safety of any person or damages their property.

B. Other Prohibited Conduct

1. The Title IX Coordinator or their designee may address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be addressed by, without limitation, requiring an affiliate to attend an educational session, issuing a letter of guidance or warning, remedial action designed to deter escalation in behavior, and/or other mechanisms (e.g., issuing an NCO). Non-compliance with guidance, warnings, or completion of an education session shall be deemed to be a failure to comply with reasonable directions of a University official as provided for in the University's Student Code of Conduct and addressed accordingly.
2. *Regulation of Speech:* the University is committed to academic freedom and principles of free speech however, there may be circumstances and scenarios where the University, through this Policy may respond to on-and-off campus harassing comments, statements, and threats, whether actual or implied, which are intended to, or have the impact of, contributing to a hostile environment as defined herein, or causing a reasonable person to feel that their access to University educational programming and activities has been compromised. On and off-campus harassing speech by employees, whether online or in person, may be regulated by the University through this Policy only when such speech is made in an employee's official or work-related capacity. Employees and faculty should include conspicuous notice as part of any communications on private social media and websites (e.g. blogs, listservs) that any speech

is made in their private capacity and is neither approved nor endorsed by the University.

3. *Disparate Treatment Discrimination*: Any intentional differential treatment of a person or persons on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that:
 - a. Excludes an individual from participation in;
 - b. Denies the individual benefits of; or
 - c. Otherwise adversely affects a term or condition of an individual's participation in a University program or activity.

4. *Disparate Impact Discrimination*: Disparate impact occurs when policies or practices that are neutral and purportedly non-discriminatory in intent, result in or have the effect of disproportionately negatively impacting individuals based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that:
 - a. Excludes an individual from participating in;
 - b. Denies the individual benefits of; or
 - c. Otherwise adversely effects a term or condition of an individual's participation in a University program or activity.

5. *Retaliation*: "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education programs or activities, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process. Nothing in this definition or this part precludes the University from requiring an employee, faculty member, or other person authorized by the University to provide aid, benefit, or service under the University's education programs or activities to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

6. *Online Harassment and Misconduct*: This Policy should be interpreted to include online manifestations of an of the behaviors prohibited by this Policy when those behaviors occur in or have an impact on the

University's education programs and activities, or when they involve the use of the University's networks, technology, or equipment.

7. *Interference with or obstruction of an investigation or resolution process:* No student, employee, faculty member, or staff member, acting with an intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any investigation conducted by the University pursuant to this Policy shall willfully withhold, misrepresent, remove from any place, conceal, cover up, destroy, mutilate, alter, or by other means falsify any documentary material², answers to written interrogatories, or oral testimony, which is the subject of investigative inquiry made by the Title IX Coordinator or their designee; or attempts to do so or solicits another to do so.
8. *Interference with or obstruction with an investigation or resolution process – threats or coercion:* No student, employee, faculty member, or staff member, acting with an intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any investigation conducted by the University pursuant to this Policy shall, by threats or force, or by any threatening letter or communication influence, obstruct, or impede or endeavor to influence, obstruct, or impede such investigation.
9. *Intentional Interference with an Investigation or Resolution Process:* No student, employee, faculty member, or staff member shall:
 - a. Destroy or conceal evidence;
 - b. Engage in actual or attempted solicitation of knowingly false testimony or provide false testimony or evidence;
 - c. Intimidate or bribe a witness, respondent, or complainant.
10. *Unauthorized Disclosure:*
 - a. Copying, distributing, or publicizing materials created or produced during an investigation or resolution process except as required by law or as expressly permitted by the Title IX Coordinator or their designee;
 - b. Publicly disclosing a party's personally identifiable information without authorization or consent.
11. *Non-Fraternization:* Excluding where an exception to this policy is approved in writing by the Title IX Coordinator, Vice President of Human

² For purposes of this Policy, "documentary material" includes, without limitation, any form of electronic evidence, record, recording, communication, or hard copy document.

Resources, or General Counsel, no employee, faculty, or staff member shall pursue, engage in, or maintain a sexual or romantic relationship with any student.

12. *Residential Advisor Non-Fraternization*: No residential advisor shall pursue, engage in, or maintain a sexual or romantic relationship with any resident for whom they have supervisory and service provision responsibilities.
13. *Conflicts of Interests*: Excluding retail, restaurants, hospitality, and temporary accommodation businesses, no employee, faculty, or staff member shall pursue, engage in, or maintain any type of business, economic, financial relationship, partnership, or pecuniary entanglements of any kind with a student or students. Employees, staff members, and faculty who, as of August 1, 2025, own residential rental properties where University students are tenants shall be exempt from this section however, as of August 1, 2024, employees, staff members, and faculty who purchase residential property for the purpose of renting to University students shall be subject to this section's prohibitions. Additionally:
 - a. Excluding where an exception to this policy is approved in writing by the Title IX Coordinator, Vice President of Human Resources, or General Counsel, no employee, faculty, or staff member shall reside with a student or provide residential accommodations to a student.
 - b. When traveling with students pursuant to University educational programming or activities, including without limitation, athletic events and competitions, no employee, faculty, or staff member shall be alone with a student in any temporary accommodation of any type (e.g., hotel room).
 - c. No employee, faculty, or staff member shall use a likeness or image of a student to promote or advertise a business or service.
 - d. No employee, faculty, or staff member shall post likenesses of students to private social media accounts.
 - e. Excluding as may be necessary for emergency contacts and as may be reasonably related to educational or other purposes approved by the University, employees, faculty, and staff members shall refrain from asking students for personal contact information including, without limitation, phone numbers, email addresses, residential addresses, and social media account information for the purpose of engaging in private communication with a student. This provision shall not be applicable to any staff member designated as a campus security authority pursuant to the Clery Act, the Violence Against Women's

Act, and Title IX, including without limitation, confidential employees as defined herein, mental and emotional health counseling professionals, Public Safety Officers, Student Affairs personnel, and the Title IX Coordinator and their designees.

- f. Excluding any staff member designated as a campus security authority pursuant to the Clery Act, the Violence Against Women's Act, and Title IX, including without limitation, confidential employees as defined herein, mental and emotional health counseling professionals, Public Safety Officers, Student Affairs personnel, and the Title IX Coordinator and their designees, all employees, faculty, and staff members shall refrain from accessing student social media accounts. This section shall not apply to valid educational purposes.

14. *Misuse of University Electronic Data Devices:* No student, employee, staff, or faculty member shall use any University provided electronic data devices including, without limitation, computers, cell/mobile phones, tablets/iPad, to create, view, or store pornographic images or child sexual abuse material.
15. *Alleged Collateral Misconduct:* Collateral misconduct is defined to include potential violations of other University policies not incorporated into this Policy including, without limitation, Student Codes of Conduct for undergraduate and graduate students, the Discrimination, Discriminatory Harassment, and Bias Motivated Acts Policy, and athletic team codes of conduct and behavior that are alleged to have occurred in conjunction with alleged violations of this Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, collateral allegations may be charged along with potential violations of this Policy, to be resolved jointly under the investigation and adjudication processes provided for herein. In such circumstances, the Title IX Coordinator, or their designee, may consult with University officials and administrators who typically respond to and have jurisdiction over such conduct (e.g., Public Safety, Student Conduct) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Title IX Coordinator. In the event that all but Student Code of Conduct allegations of misconduct are dismissed, the Student Code of Conduct charges shall be resolved according to the Student Code of Conduct Procedures by the Title IX Coordinator or their designee. Similarly, alleged violations of no-contact-orders, informal resolution

agreements, and sanctions or other post resolution directives to student parties shall be resolved according to the Student Code of Conduct Procedures by the Title IX Coordinator or their designee.

IV. Reports of Prohibited Conduct

- A. General: The Title IX Coordinator or their designee will be required to respond as provided for in this Policy when notified verbally or in writing of conduct that reasonably may constitute prohibited behavior.
- B. Statute of Limitations (Time Limits on Reporting): There is no time limitation on providing reports and complaints of prohibited conduct to the Title IX Coordinator. However, if the alleged respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited. Acting on complaints or reports significantly negatively impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. Regardless of when the alleged conduct occurred, if there is reasonable cause to believe that if true, an ongoing hostile environment exists, or there is a risk of harm to any person or the campus community, the Title IX Coordinator may investigate to determine if such hostile environment or risk of harm persists and if a determination is made that such hostile environment or risk of harm persists, make recommendations for ending it.
- C. Responsible Employees and Reporting Requirements
1. *Responsible Employee Reporting Requirements*: Excluding confidential employees as defined herein, any residential director, resident advisor, public safety officer, Title IX Coordinator, Title IX investigator, student conduct officer or investigator, staff member, employee, student employee, or faculty member of the University with either authority to institute corrective measures on behalf of the University or has responsibilities for administrative leadership, teaching, or advising shall notify the Title IX Coordinator in writing when such member has information about conduct that reasonably may constitute prohibited conduct including, without limitation, the names and identifying information about the persons who are the subject of the disclosure if known. Failure of a responsible employee, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware shall be a violation of this Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations where an alleged harasser is

a mandatory reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

- a. Responsible reporters shall not submit anonymous reports.
- b. Responsible reporters shall not agree to requests to not report information about conduct that reasonably may constitute prohibited conduct including, without limitation, the names and identifying information about the persons who are the subject of the information if known.
- c. Any staff, faculty member, or employee who is not principally employed in a confidential capacity for the University shall not be precluded from mandatory reporting responsibilities notwithstanding that they may hold licensure, certification, or positions that would otherwise be deemed confidential outside of their University employment. *See, §IV. (A)(3)(ii) below.*
- d. If a responsible reporter is the person allegedly subjected to prohibited conduct, they shall not be bound by the requirements of the Policy as provided for above in §§ IV. (A) (1) (i – iii).

2. *Additional Duties of Responsible Reporters:*

- a. Mandatory reporters shall provide the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that may constitute prohibited conduct.
- b. Mandatory reporters shall cooperate with any investigation conducted by the Title IX Coordinator pursuant to a report made by such mandatory reporter in compliance with this Policy including, without limitation, providing testimony during both the investigation and adjudication phases if requested to do so.

3. *Confidential Employees:* Confidential employees are not required to notify the Title IX Coordinator in writing when such employee has been provided with information about conduct that reasonably may constitute prohibited conduct unless the individual the confidential employee is providing services to authorizes notice to the Title IX Coordinator. A confidential reporter must, however, explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination that she/he/they is a confidential reporter and that she/he/they is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination, and also explain to the person reporting the conduct how to contact the Title IX Coordinator and how to make a complaint of sex discrimination, and that the Title IX Coordinator may be able to

offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

- a. Confidential employees are those whose communications in a professional context are defined as confidential and privileged by Connecticut and Federal law or an employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.
- b. The employee’s confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies as a University employee or staff member.

D. Party Designations:

1. *Respondent:* A person who is alleged to have violated this policy.
2. *Complainant:*
 - a. A student, employee, staff member, or faculty member who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part.
 - b. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX *or* this part.
 - c. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination and who was participating or attempting to participate in the University’s education program or activity at the time of the alleged sex discrimination, or
 - d. The University’s Title IX Coordinator.

E. Report of Prohibited Conduct: A report that someone has engaged in conduct prohibited by this Policy. Such reports may be made by *any* person regardless of whether such person is a student, faculty member, staff member, or employee of the University. Any person, regardless of University affiliation, may initiate a report.

F. Anonymous Reports: Anonymous reports may be made and received. When such reports do not include information concerning the identities of complainant and respondent, the Title IX Coordinator or their designee shall make a good faith attempt to identify the complainant and respondent based on the information contained in the report. However, if the Title IX Coordinator or their designee is unable to ascertain

the identity of either or both complainant and respondent, the Title IX Coordinator may close the case.

- G. Complaint: Complaint shall mean an oral or written request to the Title IX Coordinator, responsible employee, or employee that objectively can be understood as a request to investigate and make a determination about alleged prohibited conduct.
- H. Amnesty: To encourage reporting and participation in the process, the University offers parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the University, and amnesty does not apply to more serious allegations, including, without limitation, physical abuse/assault of another or illicit drug distribution.
- I. Conflicts of Interest: To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, their designee, or other University involved in the assessment and investigation of a report or complaint, contact the Vice President of Inclusive Excellence or the Vice President of Human Resources. During investigations of prohibited conduct, the Title IX Coordinator and investigators may ask pointed questions, confront parties and witnesses with evidence and testimony that contradicts their accounts and generally be diligent and assertive in pursuit of witness testimony and evidence. Investigators may contact witnesses unaffiliated with the University over the objection of a party. Investigators may pursue and accept evidence in the possession of individuals unaffiliated with the University. Such behaviors shall not constitute a conflict of interest.
- J. Initial Assessment
 - 1. *Report*: A report provides notice to the University of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. Reporting carries no obligation to initiate a complaint, and in most situations, the University is able to respect a complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate a resolution process. If a complainant does not wish to file a complaint, the University will maintain the privacy of information to the extent possible. The complainant should not fear a loss of confidentiality by giving Notice that allows the University to discuss and/or provide supportive measures, in most circumstances.

2. *Complaint*: A complaint provides notice to the University that the complainant or the University through the Title IX Coordinator would like to initiate an investigation or other appropriate resolution procedures.
3. *Receipt of Report or Complaint*: Upon receipt of a report or complaint of prohibited conduct, the Title IX Coordinator or their designee shall initiate a prompt initial assessment to determine next steps including:
 - a. Sending a communication to the complainant advising complainant of their rights under this Policy.
 - b. Send a communication to the complainant requesting an intake meeting for the purposes of advising complainant of the options available for resolution of the report including filing a complaint, available supportive measures and coordinating such measures if requested or deemed necessary.
 - c. The University will attempt to honor the wishes of a complainant in determining whether to initiate a complaint and grievance procedures pursuant to this Policy. Where a complainant indicates that they do not wish to file a complaint, in the absence of a complaint, or the withdrawal of any or all of the allegations in a complaint, the Title IX Coordinator may initiate a complaint based on a fact-specific determination that a complaint should be made. To make this fact-specific determination, the Title IX Coordinator or their designee must take into consideration, without limitation, the following factors:
 - i. The complainant's request not to proceed with the initiation of a complaint;
 - ii. Reasonable concerns for the complainant's safety regarding initiation of a complaint;
 - iii. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - iv. The severity of the alleged discrimination, including whether the discrimination, if established, would require removal of respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - v. The age and relationship of the parties, including whether respondent is and employee of the University;
 - vi. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex

discrimination, or sex discrimination alleged to have impacted multiple individuals;

- vii. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- viii. Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating grievance procedures. When initiating a complaint, the Title IX Coordinator does not become the complainant. The individual who is alleged to have experienced the alleged prohibited conduct will be designated as the complainant.

4. *Initial Assessment:* The Title IX Coordinator or their designee shall conduct an initial assessment which will include, without limitation, the following:

- a. Assessing whether the reported conduct may reasonably constitute a violation of the Policy. If the conduct alleged, even if true, would not constitute prohibited conduct as defined in this policy, the Title IX Coordinator shall dismiss the report or complaint. Dismissal of the complaint or report does not preclude the Title IX Coordinator or their designee from addressing objectively concerning conduct that does not rise to the level of constituting prohibited conduct. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be addressed by, without limitation, requiring a respondent to attend an educational session, issuing a letter of guidance or warning, remedial action designed to deter escalation in behavior, and/or other mechanisms (e.g., issuing an NCO). Non-compliance with guidance, warnings, or completion of an education session shall be deemed to be a failure to comply with reasonable directions of a University official as provided for in the University's Student Code of Conduct and addressed accordingly.
- b. Determining whether the University has jurisdiction over the reported conduct as defined by this Policy. If the conduct is not within the University's jurisdiction, the report or complaint should be dismissed. Notwithstanding dismissal for purposes of this Policy, the matter may be referred to another process if applicable.
- c. Determining whether supportive measures should be offered to complainant or respondent and coordinating such measures if requested or deemed necessary.

- K. Dismissal: The Title IX Coordinator may dismiss a complaint where:
1. The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so.
 2. The University no longer enrolls or employs a respondent, and as a result of the passage of time, an investigation into the allegations of prohibited conduct is likely to be futile due to the unavailability of witnesses, evidence, and other materials. However, regardless of the passage of time, where a report concerning a respondent no longer enrolled or employed by the University alleges serious prohibited misconduct including, without limitation, sexual abuse or sexually violent prohibited conduct, the Title IX Coordinator may conduct an investigation and make appropriate recommendations to the President following investigation.
 3. A complainant voluntarily withdraws any or all of the allegations in a complaint and the Title IX Coordinator declines to initiate a complaint.
 4. Viewing the alleged prohibited behavior in the light most favorable to the complainant, based on available information, the Title IX Coordinator determines that even if true, the alleged conduct would not constitute behavior prohibited by this Policy. The Title IX Coordinator may, however, refer the matter to a University department or official with authority and jurisdiction over the alleged conduct. The Title IX Coordinator may dismiss a complaint on this basis at any point in the initial assessment, investigation, grievance, or informal resolution process.
 5. The circumstances of a complaint allege the same facts previously adjudicated pursuant to the Resolution Process provided for in this Policy.
- L. Notice of Dismissal: Where a complaint is dismissed, the Title IX Coordinator shall provide written notice of the dismissal to the complainant and respondent and provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator shall also notify the respondent that the dismissal may be appealed.
- M. Appeal of Dismissal: Either party may appeal a dismissal of their Complaint. All dismissal appeal requests must be filed within five (5) business days of the notification of the dismissal. The appeal shall be made to the Title IX Coordinator who shall then assign the appeal to an appropriate, objective, disinterested University official. Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so. The Title IX Coordinator or their designee will provide notice of any appeal filed and determination of the appeal to the parties. Grounds for appeal of a dismissal determination are limited to:

1. Procedural irregularity that would alter the dismissal determination.
2. New evidence unavailable to the Title IX Coordinator that would alter the dismissal determination.
3. The Title IX Coordinator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

N. Supportive Interim Measures: The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the Grievance Procedures or during the informal resolution process. Supportive measures may vary depending on what the University deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the University's Grievance Procedures, or during the informal resolution process. *The University's ability (and obligation) to implement supportive measures is not limited to circumstances where there has been a formal investigation, information resolution process, or finding of prohibited conduct, and supportive measures can be continued beyond those processes. Section IV(J)(4) of this Policy allows for the implementation of supportive measures even with regard to reports that are not escalated to formal processes.* The University must not impose such measures for punitive or disciplinary reasons. The University may, as appropriate, modify or terminate supportive measures at the conclusion of the Grievance Procedures, or at the conclusion of the informal resolution process, or the University may continue them beyond that point. The University will provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision. The University must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. The University must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided

to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

O. Emergency Suspension and Other Interim Actions

1. The University can act to remove a student, staff member employee or faculty respondent accused of violating this policy from its educational program or limit access to an educational program and activities and programming including, without limitation:
 - a. Subjecting respondent to an immediate interim suspension.
 - b. Temporarily removing respondent from University housing or transferring respondent to another housing assignment.
 - c. Temporarily restricting a respondent's access to specified buildings and locations.
 - d. Temporarily limiting respondent's access to campus for class attendance only.
 - e. If available and without placing an undue burden on the University, restricting a respondent to remote learning.
 - f. Temporarily imposing a curfew on respondent.
 - g. Issuing a no-contact order (NCO) temporarily restraining respondent's contact and communication with complainant or potential witnesses.
 - h. Modifying or altering respondent's class schedule or assignment.
 - i. Any interim or temporary measure designed to maintain public order, maintain public safety, and reduce any potential threat to the campus community as a whole or individual members thereof including complainant and respondent.

2. Individualized Safety and Violence Risk Assessment and Analysis: With the exception of issuing an NCO, prior to subjecting a respondent to interim suspension or otherwise temporarily removing a respondent partially from any of the University's educational programs or activities, the Title IX Coordinator or their designee, in conjunction with any appropriate University department (e.g., Public Safety, CARE Team) shall complete an individualized safety and threat assessment and analysis using any available sources of information including, without limitation, records maintained by the University, interviews of individuals who may have information relevant to the assessing threat and safety risk and analysis, information from social media accounts, and law enforcement records. Information and evidence obtained pursuant to an individualized safety and threat assessment may be excluded from any subsequent investigation report and hearing where such information is not relevant to the specific allegations, which is determined by the Title IX

Coordinator of their designee to be prejudicial to respondent or complainant, or which may be protected by law as privileged and disclosed solely for the purpose of assessing safety and threat.

3. Presumption of Innocence: The implementation of a temporary or interim measure pursuant to this Policy is not a finding of responsibility or wrongdoing and shall not be used as a factor in determining responsibility nor referenced in a hearing officer's decision.
- P. Placing and Employee, Staff Member, or Faculty Member on Leave: When the respondent is an employee, student employee, staff member, or faculty member accused of misconduct in the course of their employment, existing provisions for interim action based on the respondent's membership in a union/bargaining unit are applicable. Where not prohibited by a bargaining agreement, the factors taken into consideration when deciding whether to place an accused employee, staff member, or faculty member on leave are the same as those provided for in §IV (M.) above.
- Q. Initiating a Complaint: The following people have a right to make a formal complaint of sex-based discrimination or harassment, requesting that the University investigate and make a determination about alleged sex-based harassment under Title IX:
1. A complainant, which includes a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX, or a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX, or a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the University's education program or activity; or
 2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
 3. The University's Title IX Coordinator.
- R. Cross Complaints: The Title IX Coordinator is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although the University permits the filing of cross-complaints, the Title IX Coordinator will assess whether the allegations in the cross-complaint are made in good faith. When cross complaints are not made in good faith, they will not be permitted and will be dismissed. Additionally, cross complaints determined to have been filed in bad faith will be considered potentially retaliatory and may constitute a violation of the Policy. In determining whether a

cross complaint is made in bad faith, the Title IX Coordinator or their designee shall take into consideration, without limitation, the timing of the cross-complaint and the allegations in the cross-complaint. Cross complaints determined to have been made in good faith will be processed using the resolution process provided for in this Policy. If the Title IX Coordinator determines that it would be efficient to consolidate complaints and cross-complaints for investigation and resolution, the Title IX Coordinator may do so. The Title IX Coordinator shall provide notice of consolidation to the parties.

1. *Cross Complaints – Reports of Dating Violence and Domestic Violence*: When reports or complaints of domestic violence or dating violence are made by two or more opposing persons, in determining whether a cross complaint is made in good faith as provided for above, the Title IX Coordinator or their designee shall evaluate each report or complaint separately to determine which individual is the dominant aggressor.
 2. *Dominant Aggressor*: When reports or complaints of domestic violence or dating violence are made by two or more opposing persons, “dominant aggressor” is defined as the person whom, after application of a dominant aggressor analysis (as provided for below) by the Title IX Coordinator or their designee, is determined to be the person who poses the most serious ongoing threat. This determination does not preclude the University from taking action against the person determined not to be the dominant aggressor where other prohibited conduct under this or other University policies is alleged.
 3. *Dominant Aggressor Analysis*: Application of the dominant aggressor analysis by the Title IX Coordinator or their designee shall evaluate each complaint separately and shall take into consideration, without limitation, the following factors:
 - a. Whether one person acted in defense of self or a third person,
 - b. The relative degree of any injury and whether any injury is consistent with defense of self or third person,
 - c. Any threats creating fear of physical injury,
 - d. Any history of dating or domestic violence between such persons where such history can be obtained.
 - e. The incident location and the rights of the persons involved to be there.
 - f. Whether any person resisted reasonable attempts to deescalate the situation.
- S. Consolidation of Complaints: The University may consolidate complaints of prohibited conduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

T. Withdrawal or Resignation prior to Complaint Resolution:

1. *Students*: Should a student respondent opt not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. If a student respondent withdraws from the University, the resolution process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the complaint. If the complaint is dismissed, the University will continue to offer and provide reasonable supportive or remedial measures deemed necessary to address safety and/or remedy any ongoing effects of the prohibited conduct.
 - a. When a student withdraws or leaves while the process is pending, the student may not return to the University in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, taking into consideration the seriousness of the allegations and the interests of the safety of the complainant and campus community, the Title IX Coordinator has the discretion to dismiss the Complaint. The Office of the Registrar will be notified, accordingly, and a notation will be placed in the student's file that they withdrew from the University with allegations pending and are not eligible for academic admission.
 - b. If a student respondent takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue during the leave. If found in violation, that student is not permitted to return to the University unless and until all sanctions, if any, have been satisfied.
 - c. Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged prohibited conduct.
2. *Employees*: Should an employee, staff member, or faculty respondent opt not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. If an employee respondent leaves their employment with the University with unresolved allegations pending, the resolution process may continue, or, taking into consideration the seriousness of the allegations and the interests of the safety of the complainant and campus community, the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation. When an employee resigns and the Complaint is dismissed, the employee may not return to the University in any capacity. The Office of Human Resources will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the University.

- U. Acceptance of Responsibility: At any point during the investigation, a respondent may elect to accept responsibility for some or all of the policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential policy violations, the investigator will complete an investigation report of all information gathered to date and refer the matter for sanctioning as described below.
- V. Advisors: The University will provide the parties with the same opportunities to be accompanied by an advisor of their choice (retained attorney, friend, mentor, family member, or any other individual a party chooses) to all meetings all meetings, interviews, and hearings within the investigation and resolution process including the hearing.
1. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide an attorney to advise that party during the investigation process. However, in order to ensure equity during the hearing process, the University reserves the right to provide an attorney to act as an advisor during a hearing to a party when the other party has retained an attorney.
 2. A party may elect to change advisors during the process and is not obligated to use the same advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change advisors. If a party changes advisors, consent to share information with the previous advisor is assumed to be terminated, and a release for the new advisor must be submitted.
 3. The University may permit a party to be accompanied by an emotional support person in addition to an advisor when attending meetings, interviews, and the hearing.
 4. Advisors should help the parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.
 5. The parties are expected to ask and respond to questions on their own behalf throughout the investigation and resolution process. Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved

discussions, the parties and their advisors should ask for breaks to allow for private consultation.

6. The advisor may not communicate directly with the Title IX Coordinator unless the advisee is copied on any such communications.
7. While the University respects the right of the parties to select their advisors and reasonably attempt to accommodate the schedules of advisors, the University will move forward with an investigation and resolution process and will not stay or pause an investigation where an advisor is unreasonably unavailable or engaging in dilatory tactics and behavior.
8. Advisors shall not engage in disruptive behavior during interviews, meetings, and hearings. Advisors shall not badger, berate, demean, threaten, or coerce parties and witnesses and otherwise behave in an obstreperous manner. Advisors shall not withhold evidence or testimony until a hearing or otherwise engage in unscrupulous conduct and sharp practices.
9. Any advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's established rules of decorum will be warned. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different advisor or providing a different University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

IV. Informal Resolution Process

- A. Informal Resolution is a facilitated alternative dispute resolution process that may be employed to resolve a complaint and is based upon terms and conditions of resolution agreed to by complainant and respondent to resolve a complaint. The University may resolve reports informally, as appropriate based on the circumstances. An informal resolution provides a mechanism by which the parties and the University can take prompt action designed to maintain or restore access by the parties to the educational, extracurricular, and employment activities at the University and to remedy the impacts of conduct on members of the University community.
- B. Before initiation of an informal resolution process, the University must provide to the parties notice that explains: (i) the allegations; (ii) the requirements of the informal resolution process; (iii) that, prior to agreeing to a resolution, any party has the right

to withdraw from the informal resolution process and to initiate or resume the University's grievance procedures; (iv) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations; (v) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (vi) what information the University will maintain and whether and how the University could disclose such information for use in Grievance Procedures.

- C. Informal resolution is available only once a complaint and notice of investigation have been filed, prior to a determination of responsibility. All parties and the Title IX Coordinator must voluntarily consent to the process in writing. Informal resolution is not available in cases in which an employee or faculty member is alleged to have engaged in alleged prohibited conduct against a student or the alleged prohibited conduct involves serious physical violence or sexual assault, or non-consensual sexual activity with an incapacitated complainant. Informal resolution is not available in any case where the Title IX Coordinator concludes that informal resolution would be inappropriate.
- D. To initiate an informal resolution, a complainant or respondent may make such a request in writing to the Title IX Coordinator at any time prior to a final determination. The Title IX Coordinator will then notify the other party of the request for an informal resolution. If the non-requesting party declines informal resolution, the matter will continue through the Grievance Procedures. If all parties and the Title IX Coordinator consent to attempt an informal resolution, the Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding.
- E. All parties will be required to return signed copies of the written consent to the informal resolution process to the Title IX Coordinator. The Title IX Coordinator or their designee will then facilitate the informal resolution process by requesting that the parties submit, in writing, proposals for resolution. If possible, and dependent upon such factors as, without limitation, available personnel resources and staffing, the facilitator for the informal resolution process should not be the same person as the investigator or the decisionmaker used in the Grievance Procedures. Any person designated by the University to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator or their designee shall then facilitate ongoing negotiations between the parties remotely through electronic communications between each party and the Title IX Coordinator or their

designee. *At no time shall any party direct a communication directly to another party for the purpose of proposing terms and conditions.* The Title IX Coordinator or their designee may reject any proposal they deem inappropriate. The Title IX Coordinator or their designee may require specific terms or conditions deemed necessary to end the alleged prohibited conduct or that are deemed necessary to maintain the safety of an individual party or the campus community. If an agreement is reached, all parties and the Title IX Coordinator will be required to sign a binding agreement containing the agreed upon terms and conditions.

F. If a resolution is reached between the parties in an informal resolution, the matter will be considered closed, and the parties would be precluded from filing another complaint arising from the same conduct or set of facts. Prior to reaching a resolution, any party can withdraw from the informal resolution process and resume the Grievance Procedures process. The University strives to complete an informal resolution within thirty (30) days of the parties' written agreement to participate in the process. The Title IX Coordinator or their designee may at any time terminate an informal resolution negotiation if they believe that a party is not negotiating in good faith or is being dilatory in responding to proposals.

G. Any statements made during an informal resolution process, records and communications created or maintained as part of an informal resolution process will not be used or considered in a subsequent investigation or hearing involving the same conduct or facts but may be used in determining sanctions of any subsequent or separate instances of misconduct by the same respondent(s).

V. **Grievance Process**

- A. Notice of Investigation: The Title IX Coordinator (or designee) will provide written notice of a Complaint to all known parties. This initial notice, and any supplemental notices, will be provided to the intended recipient in advance of any interview or meeting with investigators to allow the party sufficient time to prepare a response. The Title IX Coordinator may issue supplemental or amended notice of investigation as may be necessary based on information and evidence discovered through investigation. The written notice will include:
1. a link to, or copy of, these procedures;
 2. details regarding the identities of the parties, date, time and location, and nature of the reported conduct;
 3. the potential policy violations;
 4. the name of the investigator;

5. A notice of the parties' right to object to the investigator on the basis of conflict of interest or bias;
6. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Procedures process;
7. The parties' rights to be accompanied by an advisor of their choice throughout the process (see section on *Advisors* above);
8. the importance of preserving any potentially relevant evidence;
9. information about the parties' rights and responsibilities;
10. That retaliation is prohibited;
11. That there is a prohibition against making false statements during the process; and
12. If the investigation reveals the existence of additional potential policy violations, the University will issue a supplemental notice of investigation.

B. The Investigation Process:

1. The University's Grievance Procedures will meet the following minimum standards:
 - i. Treat complainants and respondents equitably;
 - ii. Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
 - iii. Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the Grievance Procedures;
 - iv. Establish reasonably prompt timeframes for the major stages of the Grievance Procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay;
 - v. Take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the Grievance Procedures, provided that the steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in the Grievance Procedures.
2. The burden to conduct an investigation is on the University, not the parties. The investigation process shall be conducted in a manner consistent with principles of due process and equity and involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the respondent engaged in a Policy violation and evidence that supports that the respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness. All parties have a full and fair

opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence. The investigation must gather sufficient information and evidence to determine whether conduct prohibited by this Policy occurred. The investigator shall conduct as thorough and comprehensive an investigation as possible under the circumstances employing investigative techniques deemed necessary to obtain relevant inculpatory and exculpatory information and evidence. The investigator is not prohibited from interviewing witnesses not affiliated with the University and obtaining evidence from such witnesses. The investigator may consider information publicly available from social media or other online sources. The complainant, respondent, or witness should bring online information to the attention of the investigator. In general, the investigator has the discretion to determine the relevance and probative value of information proffered or received. Evidence is relevant if it makes a material fact more or less probable than it would be without the evidence. The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. While the investigator shall maintain a professional demeanor at all times when interacting with parties and witnesses, investigators are not meant to act as passive receivers of information, evidence, and party and witness accounts, and may ask probative questions of parties and witnesses. Investigators should actively attempt to identify and obtain evidence and are permitted to challenge parties' and witness' accounts when those accounts are inconsistent with other evidence and witness statements gathered by the investigator, or which are patently not credible. Additionally, investigators are allowed to inquire about the authenticity and provenance of evidence submitted or obtained.

3. *Interview Recording*: It is standard practice for investigators to create record of all interviews pertaining to the Grievance Procedures (other than Informal Resolution meetings). The parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All interviews are recorded. The recording and/or transcript of those meetings will be provided to the parties for their review, after which the parties may pose additional questions to each other during a hearing. Subsequent meetings or interviews are also recorded and/or transcribed and shared with the parties.
4. *Parties and Witnesses may not Redact Evidence*: For parties or witnesses wishing to submit evidence to the investigator, they must submit all known evidence in existence and in their possession prior to completion of investigation report. Such evidence shall be complete and unredacted. If a party or witness fails or refuses to provide known evidence in their possession during the investigation, they may be precluded from offering it at a later hearing. In

addition, if a witness chooses not to participate in an investigation interview, they may be precluded from testifying at a later hearing. Although parties and witnesses can refuse to participate in an investigation and hearing, or provide curated statements, a decisionmaker (e.g., hearing officer, finder of fact) has the authority to place less or no weight upon statements by a party or witness who refuses to answer relevant questions. The investigator cannot draw an inference about whether the alleged prohibited conduct occurred based solely on a refusal to answer questions, however, the refusal to answer questions can negatively impact credibility.

5. *Party and Witness Participation*: The parties shall be permitted to provide names of potential fact witnesses to the investigator. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters. Qualified witnesses may also be offered an opportunity to provide subject matter expert information. The investigator may ask parties to explain or describe the information that they believe a proffered witness will provide. The names of witnesses and recordings of witness interviews will be made available to the parties and their advisors when all evidence is made available to the parties for their review prior to submission of the final investigation report.
6. *Material Witnesses*: In cases involving allegations of serious misconduct, where the Title IX Coordinator or their designee determines that there is a likelihood that a student witness possesses information that has strong probative value that other witnesses do not possess, and the Title IX Coordinator or their designee has made reasonable attempts to interview the witness without success, the Title IX Coordinator may direct that a hold be placed on any such student witness' account until such time as the student witness attends a meeting with the Title IX Coordinator or their designee.
7. *Prohibited Evidence*: The investigator shall not seek disclosure of evidence, records, or testimony that is protected by legally recognized privilege unless the party seeking introduction of such evidence knowingly and voluntarily waives such privilege in writing and acknowledging, in writing that such party understands that the information will be shared with the other party. Even where there has been a waiver, the investigator may redact information that is prejudicial, has no probative value, and is irrelevant to the allegations being investigated. Additionally:

- i. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment, is prohibited and should be precluded.
- ii. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged prohibited conduct or preclude determination that prohibited conduct was engaged in by the respondent.
- iii. Previous disciplinary action of any kind involving the respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.
- iv. Character evidence is irrelevant.

C. Party and Witness Interview Recording: It is standard practice for investigators to create a record of all interviews pertaining to the Resolution Process. The parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. Prior to appearing at a hearing, a witness may request that they be allowed to review the recording of their interview with an investigator.

D. Parties' Access to Information: Prior to the completion of the investigation report, the investigator will make information gathered in the investigation available for review by the parties and their advisors. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised during the Grievance Procedures, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The investigator will make available to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format, and the parties will have ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. In the written submission, the parties may offer additional comment or feedback on the facts gathered, clarify information previously shared, suggest additional witnesses, suggest

additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation. Ad hominem and demeaning or derogatory remarks and statements shall not be permitted as part of comment and feedback and will be redacted. The investigator will review the written submissions from the parties, make the written submissions available to the parties, and conduct additional investigation if necessary.

- E. Investigation Report: The investigator will produce a written investigation report that fairly summarizes the relevant information and facts gathered during the investigation and may include direct observations and reasonable inferences drawn from the facts and discussion of any consistencies or inconsistencies between the various sources of information.
1. The investigator has the discretion to determine the relevance of any witness or other evidence and shall exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative. The investigator shall exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty.
 2. Evidence pertaining to the mental health of either party is not relevant to the determination of responsibility.
 3. The investigation report will be a fair and thorough summary of all relevant information gathered that is both inculpatory and exculpatory. The investigator will make the investigative report available to the parties and their advisors, in an electronic format, at least five (5) calendar days before submitting the file for a hearing. The complainant and respondent are provided the opportunity, in writing, to offer any additional comment or feedback with respect to the investigation report within that five (5) calendar day window. Ad hominem and demeaning or derogatory remarks and statements shall not be permitted as part of comment and feedback and will be redacted. Once the parties' comments—if any—are received, or after the five (5) calendar day window has elapsed (whichever happens sooner), the investigator will make the parties' responses available to the parties.
- F. Investigation Completion: The investigator will engage in reasonable efforts to submit a final investigation report within one hundred (100) calendar days of the date the notice of investigation is provided to the parties. This time may be extended based on factors including, without limitation, the availability of parties, advisors, and witnesses, a request by a party to interview additional witnesses after a review of the evidence, and the need to evaluate new evidence offered by any party or witness prior to completion of the investigation report. The investigator will apprise the parties and their advisors of any delay beyond one hundred (100) days for submission of the final report and otherwise update the parties as to the progress of the investigation

periodically throughout the investigation process. The University shall not decline to conduct an investigation or end an existing investigation under this Policy when there is a parallel criminal investigation, however, the Title IX Coordinator may consider any reasonable request for a brief pause in the University's investigation upon receipt of a request to do so by an external law enforcement agency including a criminal prosecutor.

VI. Hearing after Investigation

- A. Notice of Hearing: Upon receipt of an investigation report, the Office of Student Conduct and Community Standards, in consultation with the Title IX Coordinator (or designee), will decide what policy violations, if any, the alleged conduct could constitute, if substantiated, and schedule a hearing. This is not a determination of responsibility, nor does it involve a determination about the credibility of the information gathered; those decisions are reserved for the decision-maker. Rather, this evaluation accepts all facts as presented by the complainant as true in order to determine the potential policy violations that will be the subject of the hearing.
- B. The Title IX Coordinator or their designee will issue a written Notice of Hearing to the complainant and respondent simultaneously. The Notice of Hearing will include: the date, time and location of the hearing; the name of the officer; how to challenge participation by the hearing officer on the basis of conflict of interest or bias; the right to have an advisor present at the hearing and conduct questioning on the party's behalf; that the University will provide an advisor, without fee or charge, to conduct cross-examination on behalf of the party at the hearing if the party does not have an advisor present for the hearing; how to request that witnesses be present at the hearing; and, information about the hearing format. Notice will be emailed at least ten (10) calendar days prior to the hearing to the parties' University email address or in any other manner reasonably designed to give notice to the parties. If some or all of the allegations in the complaint have been dismissed, the parties will receive written information about how to appeal the dismissal of the complaint.
- C. The University will reschedule a hearing one time per party based on legitimate scheduling conflicts or emergency circumstances, as decided by the University. Absent extraordinary circumstances, any rescheduled hearing will take place no later than twenty (20) business days within the date of the original hearing.
- D. Hearing Format: Hearings will be conducted virtually with technology that enables the hearing officer and parties to simultaneously see and hear the party and witnesses speaking.
 1. *Hearing Officer*: Hearing officers may be faculty or staff at the University who are attorneys or have sufficient legal training (as determined by the Title IX Coordinator) or an external attorney with experience in adjudicating higher educational sexual misconduct matters. Any individual serving as a hearing officer will be free from conflicts of interest and bias for or against either party. The

hearing officer may consult with or be advised by the Title IX Coordinator or General Counsel, however, the hearing officer retains full discretion and decision-making authority.

2. *Hearing Procedure:* Hearings will generally consist of the following steps, allowing the parties equal opportunities at each stage: (a) introductions; (b) review of procedural rules; (c) presentation of information and testimony by the parties and their witnesses; (d) the advisor for each party will ask the other party and any witnesses all relevant questions and follow-up questions, including those assessing credibility; and (e) closing remarks.
3. *Witnesses:* All parties and witnesses will be invited to speak at the hearing. The parties must submit a list of witnesses they believe have relevant information to the Office of Student Conduct and Community Standards at least three (3) business days prior to the hearing. The officer will review the parties' requested witnesses and consider any other witnesses. The hearing officer has discretion to determine which witnesses are relevant and may decline to hear from witnesses where they conclude that the information is not necessary for a decision. Witnesses will only be permitted inside the virtual/remote hearing location during their own testimony. Hearing officers have discretion to pose questions to parties and witnesses during the hearing. If a party includes on their list of witnesses a witness who was not interviewed by the investigator, the party must explain why such witness was not presented earlier, and, if accepted by the hearing officer, such witness must be interviewed by the investigator prior to testifying and the record of the witness' interview made available to the parties, their advisors, and the hearing officer at least twenty-four (24) hours prior to the witness' hearing testimony. Any such witness who declines to be interviewed by the investigator shall be precluded from offering testimony during the hearing.
4. *New Evidence:* If a party seeks to introduce evidence that was not made available to the investigator during the course of the investigation and, during the course of the investigation, the party seeking to introduce such evidence reasonably had access to such evidence, the hearing officer may preclude it. If such evidence was not reasonably available during the course of the investigation, or, notwithstanding its availability during the investigation, the hearing officer determines that the evidence is material to a fact issue or credibility, the evidence will be made available to the investigator who will be provided a reasonable opportunity to authenticate and establish the provenance of the evidence. This process may include interviewing the party who is seeking to admit the evidence and any person who may have provided such evidence to the party seeking to admit it. The investigator will then prepare a supplement to the investigation report detailing any information about the evidence including a recording of any new interview conducted. This supplementary material will be made available to the parties, their advisors, and the hearing officer prior to the close of the hearing.

5. *Failure to Appear and Refusal to Answer Questions*: If a party or witness declines to attend a hearing, or attends but declines to submit to questioning by the other party's advisor, the hearing officer may rely on recorded statements of the non-appearing party or witness to the investigator in reaching a determination regarding responsibility, after assessing the relevance of each statement and weighing the reliability of each statement against the fact that the statement was not further tested through questioning at the hearing.
 - a. Although parties and witnesses can refuse to participate in a hearing, or provide curated statements, the hearing officer has the authority to place less or no weight upon statements by a party or witness who refuses to answer relevant questions.
 - b. The hearing officer cannot draw an inference about whether the alleged prohibited conduct occurred based solely on a refusal to answer questions or failure to appear, however, the refusal to answer questions or failure to appear can negatively impact credibility.
 - c. If, despite being notified of the date, time, and location of the hearing, either party is not in attendance, the hearing may proceed, factual findings may be resolved, and applicable sanctions may be imposed. Neither party is required to participate in the hearing in order for the hearing to proceed. A hearing officer or panel may consider prior findings of responsibility, if relevant, as pattern evidence for sanctioning purposes.
- E. Questioning: Each party or their advisor may ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally if the party has an advisor. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The hearing officer may pose questions to parties and witnesses. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who may be an attorney, but is not required to be provided that the any such advisor has sufficient training to provide competent and effective questioning, to conduct cross-examination on behalf of that party.
- F. Attendance at a hearing is limited to the hearing officer; the hearing officer's advisor; the Title IX Coordinator or a designee; the parties and their advisors; Public Safety representatives, if appropriate; witnesses (for their own testimony only); and anyone else the hearing officer deems necessary to administer the hearing. The parties must provide the names of their advisors to the at least three (3) business days prior to the hearing.
- G. Acceptance of Responsibility: At any point during the hearing, a respondent may elect to accept responsibility for some or all of the policy violations at issue. Where

there is an acceptance of responsibility as to some but not all of the charges, the hearing will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential policy violations, the hearing officer shall ensure that such acceptance of responsibility is placed on the record once they are satisfied that such acceptance of responsibility is knowingly and voluntarily being made, and the respondent is waiving their right to a hearing, will refer the matter for sanctioning as described below.

- H. The hearing will be recorded. Recordings will not include deliberations. Either party may request access to a written transcript of the recording at no cost to the party. Printed transcripts may be redacted by Community Standards prior to being provided to the requesting party in accordance with applicable privacy laws.
- I. Impact Statements: Prior to a determination, the hearing officer will provide the parties with an opportunity to submit written impact and/or mitigation statements. The hearing officer will provide these statements to the Title IX Coordinator who will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the hearing officer has made determinations on the allegations. If there are any findings of a Policy violation, the hearing officer will provide any impact statement to the Director of Student Conduct, or in the case of matters involving employee, staff, or faculty respondent, to the Vice President of Human Resources (or their designee), who will review them prior to determining sanctions. They will also be exchanged between the parties at that time.
- J. Hearing Officer's Decision: Based on an objective review of all relevant evidence, the hearing officer will decide whether the respondent engaged in Prohibited Conduct by using a preponderance of the evidence or "more likely than not" standard of evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- K. Notice of Outcome: Within twenty (20) business days of a hearing, the hearing officer will simultaneously issue to the parties, the Director of Community Standards or, in the case of employee, staff, or faculty respondents, to the Vice President of Human Resources (or their designee), a written decision regarding responsibility.

The written decision will include the following elements: (1) identification of the allegations potentially constituting prohibited conduct; (2) a description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) conclusions regarding the application of this Policy to the facts; and (5) a statement of, and rationale for, the result as to each alleged policy violation.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a resolution process at any time, and/or referring that information to another process for resolution.

- L. Appeals: Within five (5) business days of receipt of the hearing officer's decision, either party may submit, in writing, a request for appeal of the hearing officer's determination. In cases wherein the respondent is a student, an appeal by either party will be submitted to the Director of Student Conduct. In cases wherein the respondent is an employee, staff member, or faculty member, an appeal by either party will be submitted to the Vice President of Human Resources (or their designee). All other parties and their advisors, the Title IX Coordinator, and, when appropriate, the investigator(s) and/or the hearing officer will be provided a copy of the request for appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Director of Conduct or the Vice President of Human Resources (or their designee) will forward all responses, if any, to all parties for review and comment.
1. *Basis for Appeal*: Any appeal must state one of the following bases for appeal and must provide a clear explanation and information of how the basis for appeal is applicable to their case. If the request for appeal does not provide information that meets the grounds in this Policy, the request will be denied, and the parties and their advisors will be simultaneously notified in writing of the denial and the rationale. Grounds for appeal are as follows:
 - a. Procedural irregularity that would alter the outcome.
 - b. New evidence that would change the outcome and that was not reasonably available at the time of the investigation.
 - c. Conflict of interest or bias of the investigator or hearing officer.
 2. Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, however, emergency suspensions, leaves, no-contact-orders, and supportive measures may be maintained or reinstated until the appeal determination is made.
 3. *Appeal Determination Process*: Appellate review is limited to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The appellate decision maker will deliberate as soon as is practicable. An appeal is not an opportunity for the appellate decision maker to substitute their judgment for that of the hearing officer merely because they disagree with the finding and/or sanction(s). The appellate decision-maker may consult with the Director of Conduct or the Vice President of Human Resources (or their designee) regarding questions and issues of procedure or rationale, for clarification, if needed. The appellate decision maker will maintain documentation of all such consultation. If one of the bases for appeal is new evidence that would change the outcome and that was not reasonably available at the time of investigation,

and the appellate decision-maker concludes that the such evidence exists, the appellate decision-maker will return the case to the hearing officer so that the hearing may be re-opened and the parties and the hearing officer be afforded an opportunity to ask questions concerning the new evidence.

4. *Appeal Outcome*: An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original investigator(s) and/or hearing officer with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original investigator(s) and/or hearing officer, the appellate decision-maker may order a new investigation and/or a new determination. A Notice of Appeal Outcome letter will be sent to all parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the University is permitted to share under federal or state law. Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures. If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

VII. Sanctions

- A. Factors for Consideration in Sanctioning: Factors considered by the decision-maker when determining sanctions and responsive actions may include, but are not limited to:
 - The nature, severity of, and circumstances surrounding the violation(s).
 - The Respondent's disciplinary history.
 - The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation.
 - The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation.
 - The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community.
 - The impact on the Parties.
 - Any other information deemed relevant by the decision-maker.

Sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

- B. Student Sanctions: Students found responsible for committing Policy violations will likely receive a sanction ranging from a warning, such as a written reprimand, to expulsion, depending upon the severity of the incident and any previous violations of the Student Code of Conduct or this Policy.
- C. Employee Sanctions: Sanctions for an employee who has been found to commit a violation of this Policy will be administered in accordance with the Faculty Handbook, Employee Handbook, and/or collective bargaining agreement as applicable. Subject to applicable policy, sanctions for employees found responsible for committing Policy violations will likely receive a sanction ranging from a warning, such as a written reprimand, to termination, depending upon the severity of the incident and any previous violations of this or other University policies.
- D. Transcript Notations and Human Resources Record Notation: Where a student is found responsible for violating this Policy, the Office of the Registrar shall enter a notation on the student's transcript that the student was found responsible for a violation of the University Code of Conduct. Where an employee, staff member, or faculty member is found responsible for a violation of this Policy, the Office of Human Resources shall include in a notation in the individual's employment record/file that they were found responsible for a violation of this policy.
- E. Imposition of Sanctions where Respondent has Transferred, Graduated, or Resigned: Where a student has graduated, transferred, or voluntarily separated from the University during the pendency of formal process, if there is a finding of responsibility for a violation of this Policy occurring while the student was affiliated with the University, the University may impose sanctions and withhold release of the student's transcript, diploma, and other records until such time as the student successfully completes the sanction. Where an employee, staff member, or faculty member who has voluntarily separated from the University is found responsible for violation of this Policy for acts occurring while affiliated with the University, The University may ban such person from campus and place them on a "do not hire" list.
- F. Violation of Sanctions or Interim Supportive Measures: In the event that a student is alleged to have violated a sanction, interim supportive measure, or term and condition of an informal resolution agreement, the resolution of such allegations shall be

resolved in accordance with the Student Code of Conduct - Conduct Procedures by the Title IX Coordinator or their designee.