

## **Investigation and Resolution Procedures for Allegations of Title IX Sexual Harassment**

These Investigation and Resolution Procedures (“Title IX Sexual Harassment Procedures”) will apply to all reports or complaints that include an allegation of potential Title IX Sexual Harassment, as defined in the University’s Policy Against Title IX Sexual Harassment and Sexual Misconduct (“Policy”). These procedures apply to Title IX Sexual Harassment that is committed by a current student, administrator, faculty member, staff member, contractor, visitor, guest, or other member of the University community. If there is a conflict between the Title IX Sexual Harassment Procedures and the contractual rights of a faculty member or employee, the University will apply or modify these Procedures in a manner that comports with any such contractual rights.

The University is committed to the prompt and equitable resolution of all alleged or suspected violations of the Policy about which the University knows or reasonably should know, regardless of whether a complaint alleging a violation of the Policy has been filed in the manner set forth in the Title IX Sexual Harassment Procedures or the Sexual Misconduct Procedures. Under Illinois law reporting parties have the right to request a prompt procedure, and the University is committed to providing a prompt resolution in all matters. The University will provide periodic updates to the parties regarding the status of the investigation and resolution as it deems appropriate.

The University's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the report is anonymous, whether the Complainant is willing to file a report or to consent to an investigation, the Complainant’s request for confidentiality, the location where the alleged conduct occurred, and the University's access to information relevant to the alleged or suspected violation of the Policy. The University is nonetheless committed to investigating and resolving all alleged and suspected violations of the Policy to the fullest extent possible under the circumstances.

The University may at any time, upon finding of good cause, modify these Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law.

### **I. REPORTING TITLE IX SEXUAL HARASSMENT**

There are various reporting options and resources available to the University community for individuals who wish to make a complaint or report of an alleged or suspected Title IX Sexual Harassment. The University encourages those who have experienced Title IX Sexual Harassment to talk to one or more of the individuals or agencies identified below.

#### **A. Reporting to the University**

Any person may report Title IX Sexual Harassment to the Title IX Coordinator. Reports may be made by Complainants, third parties, witnesses, or bystanders, and may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

The University encourages individuals to report such incidents as soon as practically possible, but there is no time limit on reporting incidents of Title IX Sexual Harassment.

The name and contact information for the Title IX Coordinator is:

Tom Ascher  
Director of Human Resources/Title IX Coordinator  
One University Avenue  
Bourbonnais, IL 60914  
Phone: 815-928-5473  
Fax: 815-928-5781  
Email: [tascher@olivet.edu](mailto:tascher@olivet.edu)

In addition to reporting to the Title IX Coordinator, any person may report Title IX Sexual Harassment to the following University employees:

**ONU Department of Public Safety**

One University Avenue  
Bourbonnais, IL 60914  
815-939-5265  
[publicsafety@olivet.edu](mailto:publicsafety@olivet.edu)

**Title IX Committee Members**

Jason Stephens – Vice President of Student Development  
815-939-5333

[jbstephens@olivet.edu](mailto:jbstephens@olivet.edu)

Drew Benson – Dean of Students

815-939-5333

[abenson@olivet.edu](mailto:abenson@olivet.edu)

Mitchell Greer – Director of Public Safety

815-928-5597

[mgreer@olivet.edu](mailto:mgreer@olivet.edu)

Ashley Thomas – Assistant Athletic Director-Operations

815-928-5373

[aathomas@olivet.edu](mailto:aathomas@olivet.edu)

Mindy Williamson – Associate Director of Development & Engagement Tech Service  
815-939-5195

[mawilliamson@olivet.edu](mailto:mawilliamson@olivet.edu)

Hillary Cole – Chair, Social Work & Criminal Justice/ Assistant Professor  
815-928-5407

[hlcole@olivet.edu](mailto:hlcole@olivet.edu)

Brianna Koch – Director of Counseling Services  
815-928-5786

[bnkoch@olivet.edu](mailto:bnkoch@olivet.edu)

### **Reporting Officials**

All non-student University employees, except those identified in the Confidential Reporting section below, are obligated to share with the Title IX Coordinator any alleged violation of the Policy of which they become aware (including the identities of the parties) unless they are expressly prohibited by law from disclosing such information. Students employed as Resident Assistants (RAs) are also considered University representatives who are obligated to share with the Lead Title IX Coordinator any alleged violation of the Policy of which they become aware (including the identities of the parties) in their capacity as an RA.

#### **1. Anonymous Witness Report**

Individuals, including third parties, witnesses, and bystanders, can submit an anonymous report of Title IX Sexual Harassment by completing the form found at: <https://www.olivet.edu/silent-witness> . Upon filing an electronic report, the electronic reporter (if not anonymous) will receive an electronic response within 12 hours.

These reports will be sent to the Title IX Coordinator who will make every effort to respond or take other corrective action, but the University's ability to respond or take corrective action following an anonymous report may be limited. This reporting mechanism is not a substitute for the obligation of all University employees, except for the Confidential Reporting resources identified below, to make a report as described above.

## **2. Information Regarding the Parties Rights & Options**

Upon receiving a report of an incident of Title IX Sexual Harassment, the University will provide the Complainant with a written document (separate from this Policy) listing, in plain, concise language, the Complainant's available rights, options and resources, as well as a description of the University's Title IX Sexual Harassment Procedures. The University will also provide the Respondent with a written document (separate from this Policy) listing, in plain and concise language, the Respondent's available rights, options and resources, as well as a description of the University's Title IX Sexual Harassment Procedures.

## **3. Amnesty Policy**

The University encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The University recognizes that an individual who has been drinking or using drugs at the time of an incident of Title IX Sexual Harassment may be hesitant to make a report because of potential disciplinary consequences. To encourage reporting, the University offers amnesty or limited immunity to any student who reports, in good faith, an alleged violation of the University's Policy involving Title IX Sexual Harassment to the Title IX Coordinator or member of the Title IX Committee, a Reporting Official, or the Department of Public Safety. An individual who makes a report of Title IX Sexual Harassment that was directed at them or another person will not be subject to disciplinary action by the University for violations of the University's Code of Conduct, including but not limited to personal consumption of alcohol or drugs that is related to or revealed in the course of the Title IX Sexual Harassment report or investigation, unless the University determines that the violation was serious and/or endangered the health or well-being of any other individual. The University may, however, initiate an education discussion or pursue other educational remedies, such as education regarding alcohol or other drugs, for an individual who makes such a good faith report.

### **B. Reporting to Law Enforcement**

Individuals who feel they have experienced an act of Title IX Sexual Harassment have the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint with the University through these Title IX Sexual Harassment Procedures, or to pursue both processes consecutively or concurrently. A victim of Title IX Sexual Harassment also has the right not to pursue any complaint to either the University or to a law enforcement agency.

For more information regarding the option to pursue a criminal complaint, contact:

### **Bourbonnais Police Department**

700 Main Street NW, Bourbonnais, IL 60914

Emergency: 911

Non-Emergency: 815-937-3577

Email: [police@villageofbourbonnais.com](mailto:police@villageofbourbonnais.com)

Website: [Police Department - Village of Bourbonnais](#)

**The Illinois State's Attorney Office (Kankakee County): 815-936-5800.**

The University's Title IX Coordinator and Public Safety Department are available to assist students with making contact with appropriate law enforcement authorities. (For more information on the extent of a particular law enforcement agency's reporting obligations to other entities or its ability to protect an individual's privacy or have confidential communications during the criminal complaint process, contact the appropriate law enforcement agency.)

In addition to having the option of pursuing a criminal complaint, individuals also have the right to request that law enforcement issue emergency protective restraining orders or to pursue such orders through the court process. The University can assist parties who wish to do so. Individuals who receive emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the University can work with the individual and the subject of the restraining order to manage compliance with the order on campus. For more information about such orders see:

[Orders of Protection](#)

[Can I Get a Restraining Order? Steps, Types, and Requirements - LegalClarity](#)

The Title IX Coordinator and Public Safety Department will assist individuals with transportation to a hospital if they so request, with making contact with appropriate law enforcement authorities upon request, and with accessing all appropriate resources and support, including on- and off-campus confidential victim services and sexual violence crisis support.

Whether or not criminal charges are filed, the University will initiate an investigation as provided in this Policy where appropriate. "Requesting Confidentiality: How the University Will Weigh the Request and Respond" includes additional information regarding requests for confidentiality or requests that no investigation be conducted. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the University's investigation, but the University will commence or resume its own investigation as soon as is practicable under the circumstances. The University reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding. The University also may, in some circumstances, be required by law enforcement to defer the fact-finding portion of its investigation for a limited time while law enforcement

gathers evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer the University's fact-finding, provide regular updates on the status of the investigation and notify the parties when the University's fact-finding resumes. During this time period, the University will take any additional measures necessary to protect and support the parties and the University community. The University's authority to sanction members of the University community applies only to the violation of University rules, policies and procedures.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation Title IX Sexual Harassment under this Policy, criminal investigations or reports are not determinative of whether Title IX Sexual Harassment, for purposes of this Policy, has occurred. In other words, conduct may constitute Title IX Sexual Harassment under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

### **C. Special Advice for Individuals Reporting Sexual Assault, Domestic Violence, Dating Violence, or Stalking**

#### **1. Medical Assistance**

The University also encourages all individuals who feel they have been victims of Sexual Assault, Domestic Violence, Dating Violence, or Stalking to seek immediate assistance from a medical provider for emergency services, including treatment of any injury, and to collect and preserve physical and other forms of evidence.

Seeking medical attention helps preserve the full range of options, including the options of working through the University's Title IX Sexual Harassment Procedures and/or filing criminal complaints. Medical personnel may be covered by federal and/or state privacy laws, such as the Health Insurance Portability and Accountability Act. Under Illinois law, medical personnel are required to alert police when it reasonably appears that the individual requesting the treatment has received an injury sustained as a victim of a criminal offense, including sexual violence. However, it is the individual's choice whether they want to speak to the police.

Local medical assistance can be obtained at:

#### **Riverside Medical Center**

350 N. Wall St., Kankakee, IL 60901

815-933-1671

Website: <https://www.riversidehealthcare.org/>

#### **St. Mary's Hospital, Kankakee**

500 W. Court St., Kankakee, IL 60901

815-937-2400

Website: <http://www.presencehealth.org/presence-st-marys-hospital-kankakee>

## 2. Preserving Evidence

Individuals who have experienced Sexual Assault, Dating Violence, Domestic Violence or Stalking often have legal options that they can pursue, including obtaining a protective order from a court, pursuing a civil action, and/or participating in a law enforcement investigation and criminal prosecution. Regardless of whether an incident is reported to the police or the University, it is important for an individual who has experienced Sexual Assault, Dating Violence, or Domestic Violence to preserve evidence to the greatest extent possible to preserve all legal options.

Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if they choose not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, they can bring them unwashed to the hospital or medical facility in a paper bag.

Under Illinois law, forensic medical examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient. Victims can obtain free medical care related to the incident and forensic medical examinations at:

### **St. Mary's Hospital, Kankakee**

500 W. Court St., Kankakee, IL 60901

815-937-2100

Website: <https://www.amitahealth.org/our-locations/hospitals/amita-health-st-mary-s-hospital-kankakee/>

### **Riverside Medical Center**

350 N. Wall St., Kankakee, IL 60901

815-935-7500

Website: <https://www.riversidehealthcare.org/>; and/or

<https://www.riversidehealthcare.org/location/riverside-medical-center>

### **Presence St. Mary's Sexual Assault Nurse Examiner (SANE) Program:**

Both Presence St. Mary's Hospital and Riverside Medical Center have Sexual Assault Nurse Examiner (SANE) Programs. In their respective Emergency Departments, Presence St. Mary's Hospital and Riverside Medical Center have SANE nurses. A SANE practitioner has received extensive specialized training in sexual assault trauma response and emotional support for the victims of sexual assault. They are trained to provide crisis intervention and to meticulously document injuries and physical evidence. SANE nurses

also have training in forensic evidence collection, forensic techniques using specialized equipment, expert witness testimony, assessment of injuries, STD treatment and pregnancy evaluation and treatment.

More information can be found at: [What is a SANE?](#)

Individuals who have experienced Sexual Assault, Dating Violence, Domestic Violence, or Stalking are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents.

#### **D. Resources and Confidential Reporting**

Any individual affected by or accused of Title IX Sexual Harassment will have equal access to support and counseling services offered through the University. The University encourages any individual who has questions or concerns to seek support from these resources. The Title IX Coordinator is available to provide information about the University's Policy and procedures and to provide assistance. A list of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services and resources available is located at the following link: [Title IX - Home](#)

The University recognizes that individuals who feel they have been victims of Title IX Sexual Harassment may require time and support in considering whether or how to participate in any University or law enforcement process. The University also recognizes that individuals who have been accused of Title IX Sexual Harassment may also require support. Individuals wishing to obtain confidential assistance without making a report to the University may do so by speaking with any of the following Confidential Advisors or resources. These resources are available to both parties and are available whether or not a Complainant chooses to report an incident to the University or to law enforcement or participate in the University's Title IX Sexual Harassment Procedures or in the legal or criminal process with regard to any such report.

##### **1. On-Campus Confidential Advisors**

Individuals wishing to obtain confidential assistance without making a report to the University may do so by speaking with the University's confidential advisors. Staff counselors and medical personnel at the Center for Counseling and Health Services are confidential advisors who are available to discuss incidents or accusations of Title IX Sexual Harassment with both Complainants and Respondents in confidence and can provide emotional and medical support in a safe and confidential space. These services are available without charge.

Confidential advisors generally only report to the University that an incident is alleged to have occurred without revealing any personally identifying information. Disclosures to confidential advisors **will not** trigger the University's investigation into an incident.

Confidential advisors are available to provide support and information to individuals who have experienced or been accused of Title IX Sexual Harassment, including providing the following:

- Information regarding reporting options and possible outcomes, including reporting to the University's Title IX Coordinator pursuant to the University's Policy and procedures and/or notifying local law enforcement;
- Information regarding available resources and services, including but not limited to services available on campus and through community-based resources, such as, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- Information regarding orders of protection, no contact orders or similar lawful orders issued by the University or a criminal or civil court;
- An explanation of the individual's right to have privileged, confidential communications with the confidential advisor consistent with state and federal law;
- Assistance in contacting campus officials, community-based sexual assault crisis centers and/or local law enforcement upon request; and/or
- Assistance with securing interim protective measures and accommodations upon request.

**Confidential Advisor Contact Information:**

**ONU Center for Counseling Services: 815-939-5256**

**2. Confidential Resources in the Community**

The following off-campus agencies also employ individuals available to assist members of the University community with issues relating to Title IX Sexual Harassment in confidence.

Disclosures to these entities **will not** trigger the University's investigation into an incident. Please note that limitations of confidentiality may exist for individuals under the age of 18.

**Harbor House – Kankakee County**

Harbor House offers free and confidential comprehensive services to victims of Domestic Violence and their children: 24 Hour Crisis Hotline, Crisis Intervention, Emergency Shelter, Individual & Group Counseling, Support Groups, Court Advocacy, Information & Referrals, System Advocacy (law enforcement, judicial, human services, etc.), Transitional Housing

Harbor House offers Community Education on issues relevant to Domestic Violence. Harbor House's primary goal is to provide a safe environment in which to educate victims and enable them to break their personal cycle of violence safely.

Address: PO Box 1824, Kankakee IL, 60901  
24-Hour Local Crisis Line: 815-932-5800  
Office: 815-935-5814  
Email: [harbor@harborhousedv.org](mailto:harbor@harborhousedv.org)  
[www.harborhousedv.org/index.html](http://www.harborhousedv.org/index.html)

### **Clove Alliance**

Clove Alliance provides free and confidential support to survivors of sexual violence. Services include a 24-hour hotline and in-person response to local emergency rooms and police stations, assistance throughout the medical and criminal justice process, as well as psychological support through counseling. KCCASA also works to educate and partner with the community to improve response to survivors while working toward the prevention of sexual assault.

24-Hour Crisis Line: 815-932-3322  
Office: 815-932-7273  
<https://clovealliance.org/>  
1440 West Court Street  
Kankakee, IL 60901

### **E. Requesting Confidentiality: How the University Will Weigh the Request and Respond**

In some cases, an individual may disclose an incident of Title IX Sexual Harassment to a non-confidential source but wish to maintain confidentiality or request that no investigation into a particular incident be conducted or disciplinary action be taken. The University has designated the Title IX Coordinator to evaluate requests for confidentiality or that no formal action be taken and oversee the University's response to reports of alleged Title IX Sexual Harassment involving University students.

If a Complainant discloses an incident, but requests confidentiality or is unwilling to participate in any investigation or adjudication process, the Title IX Coordinator, in consultation with other University administrators, will weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the Complainant and the alleged Respondent. When weighing a Complainant's request for confidentiality or that no investigation or resolution be pursued, the Title IX Coordinator will consider a range of factors, which may include but are not limited to, whether:

- The alleged Respondent is likely to commit additional acts of sexual or other violence, such as:
  - Whether there have been other Title IX Sexual Harassment about the same alleged Responding Party;
  - Whether the alleged Respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the alleged Respondent threatened further sexual misconduct or interpersonal violence or other violence against the Reporting Party or others;
  - Whether the Title IX Sexual Harassment was committed by multiple perpetrators
- The Title IX Sexual Harassment was perpetrated with a weapon
- The Reporting Party is a minor
- The University possesses other means to obtain relevant evidence of the Title IX Sexual Harassment (e.g., security cameras or personnel, physical evidence)
- The Complainant’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

If none of these factors are present, the University is more likely to respect the Complainant’s request. If the University honors a Complainant’s request for confidentiality or request that no investigation or resolution be pursued, the University’s ability to investigate the incident comprehensively or pursue disciplinary action against the alleged Respondent(s) may potentially be limited.

The presence of one or more of the above factors could lead the Title IX Coordinator to file a Formal Complaint on behalf of the University, if doing so is not clearly unreasonable, as set forth in “Formal Complaint.” If the Title IX Coordinator determines that the University cannot maintain a Complainant’s confidentiality, the Title IX Coordinator will inform the Complainant prior to filing the Formal Complaint.

## **II. Preliminary Assessment**

Whatever the source, the University will make every effort to bring reports as quickly as possible to the Title IX Coordinator for preliminary assessment. Upon receipt of a report, the Title IX Coordinator will conduct a preliminary assessment to determine whether the conduct, as reported, constitutes or could constitute Title IX Sexual Harassment, as defined in the Policy, including whether the conduct as reported:

- Occurred or could have occurred in the United States and within the University’s Education Programs and Activities and is alleged to have been committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the University community; and
- Constitutes or could constitute Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, as

defined by the Policy.

If the Title IX Coordinator determines that the conduct reported could not constitute Title IX Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter for the purposes of these Title IX Procedures and may notify the Complainant if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). If the conduct constitutes or could constitute Sexual Misconduct as defined by the Policy, the Title IX Coordinator may proceed to assess the report pursuant to the Sexual Misconduct Procedures. The Title IX Coordinator may also apply other procedures or refer the report to other University offices as appropriate.

If the Title IX Coordinator determines that all or part of the conduct reported could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified in “Contacting the Complainant.”

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

### **III. Contacting the Complainant**

If a report is not closed as a result of the preliminary assessment and the Complainant’s identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures; to discuss and consider the Complainant’s wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

### **IV. Supportive Measures**

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the University’s Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the University’s education environment, or to deter Title IX Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

If a report is not closed as a result of the preliminary assessment specified in “Preliminary Assessment,” the University will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the University will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The University will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The Title IX Coordinator will provide the Complainant and Respondent with a written document (separate from this Policy) listing the available rights, options, and resources, including Supportive Measures, and describing the Title IX Procedures in plain, concise language.

The University will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the University’s ability to provide the Supportive Measures in question.

## **V. Interim Removal**

At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the University’s Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

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

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

## **VI. Formal Complaint**

A “Formal Complaint” is a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment in accordance with these Procedures. A “document filed by a Complainant” means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Title IX Sexual Harassment in accordance with these Procedures. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the University’s education programs or activities. A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified in Section VI above. No person may submit a Formal Complaint on the Complainant’s behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the University if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. Factors the Title IX Coordinator may consider in determining whether to file a Formal Complaint on behalf of the University include (but are not limited to):

- Whether the alleged Respondent is likely to commit additional acts of sexual or other violence, such as:
  - Whether there have been other Title IX Sexual Harassment about the same alleged Responding Party;
  - Whether the alleged Respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the alleged Respondent threatened further sexual misconduct or interpersonal violence or other violence against the Reporting Party or others;
- Whether the Title IX Sexual Harassment was committed by multiple perpetrators
- The Title IX Sexual Harassment was perpetrated with a weapon
- The Reporting Party is a minor
- The University possesses other means to obtain relevant evidence of the Title IX Sexual Harassment (e.g., security cameras or personnel, physical evidence)
- The Complainant’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the University will commence an investigation and proceed to adjudicate the matter as specified in these Procedures. In all cases where a Formal Complaint is filed, the Complainant will be treated as a

party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If neither the Complainant or the Title IX Coordinator files a Formal Complaint, the investigation and adjudication provisions these Procedures will not be applied, but the Title IX Coordinator may assess the matter under the University's Sexual Misconduct Procedures or refer the matter to other University offices, as appropriate.

## **VII. Consolidation of Formal Complaints**

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

## **VIII. Dismissal Prior to Commencement of Investigation**

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

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint did not occur in the University's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States.

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in "Appeal." The Title IX Coordinator may assess the matter under the University's Sexual Misconduct Investigation Procedures or refer the matter to other University offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of these Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

## **IX. Notice of Formal Complaint**

Within five (5) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this Policy or a hyperlink to this Policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice.
- Notifying the Complainant and Respondent of their right to inspect and review evidence.
- Notifying the Complainant and Respondent of the University's prohibitions on retaliation and false statements specified in the Policy.
- Information about resources available on campus and in the community.

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

## **X. Investigation**

### **A. Commencement and Timing**

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties. The investigation will culminate in a written investigation report that will be submitted to the hearing officer during the hearing process. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within 60 days of the transmittal of the written notice of Formal Complaint.

### **B. Equal Opportunity**

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered

solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

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

### **C. Documentation of Investigation**

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

### **D. Access to the Evidence**

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

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

### **E. Investigation Report**

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

either electronic or hard copy form.

## **XI. Hearing Process**

### **A. Hearing Officer**

The Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator.

### **B. Hearing Notice and Response to the Investigation Report**

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the University's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) days from the date of transmittal of the written notice.

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

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

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

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

### **C. Pre-Hearing Conference**

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the pre-hearing conference will be conducted with the hearing officer, the parties, the advisors, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

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

### **D. Issuance of Notices of Attendance**

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

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

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

#### **E. Hearing**

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the University's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. Neither party will be compelled to testify in the physical presence of the other party.

In the hearing officer's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

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

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

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary University personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete. The parties will not be permitted to question the other party or any witness directly.

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

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

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

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

#### **F. Subjection to Questioning**

The parties are permitted to participate in the entirety of the hearing, portions thereof, or they can decline to participate in the hearing entirely, and the hearing officer will not draw an adverse inference against a party based solely on their decision not to participate in all or some of the hearing proceedings.

In accordance with Section X of these Investigation and Resolution Procedures for Allegations of Title IX Sexual Harassment, if a party declined to participate in investigative interviews deemed necessary by the Investigator, the party will not be permitted the opportunity to provide testimony at the hearing absent a showing of good cause. If a party who has so declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was good cause for the non-participation, the hearing officer, in their discretion, may permit the party to participate. If the hearing officer permits the party to participate in the hearing, the hearing officer will first reschedule or adjourn the hearing for the Investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

Notwithstanding any provisions of this Policy, if a matter subject to a hearing is referred for consideration under the University's Sexual Misconduct Procedures, any information

collected from a party or witness who refuses to attend a hearing under this Policy or attends but refuses to submit to questioning by the parties' advisors, including testimony collected during the investigation under this Policy, may be evaluated and considered under the Sexual Misconduct Procedures.

#### **G. Deliberation and Determination**

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or by operation of "Subjection to Questioning." The hearing officer will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Formal Complaint.

#### **H. Discipline and Remedies**

In the event the hearing officer determines that the Respondent is responsible for violating this Policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Supportive Measures or other remedies will be provided to the Complainant.

#### **I. Written Decision**

After reaching a determination and consulting with the appropriate University official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the University upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Title IX Sexual Harassment, including a determination regarding responsibility

for each separate potential incident;

- The discipline determined by the appropriate University official;
- Whether the Complainant will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator; and
- A description of the University's process and grounds for appeal.

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

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the University strives to issue the hearing officer's written determination within seven (7) days of the decision.

## **XII. Dismissal During Investigation or Adjudication**

The University shall dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that one or more of the following is true:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy specified in "Scope" (that is, because the alleged conduct did not occur in the University's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

The University may dismiss a Formal Complaint at any point during the investigation or hearing process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the University, as the case may be; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator dismisses a Formal Complaint pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in "Appeal." The Title IX Coordinator may assess the subject matter of the Formal Complaint under the University's Sexual Misconduct Procedures or refer the subject matter of the Formal Complaint to other University offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to the Title

IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

### **XIII. Appeal**

Either party may appeal the determination of a hearing or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, hearing officer, or administrative officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.
- The sanction is disproportionate with the violation.

No other grounds for appeal are permitted.

A party must file an appeal within seven (7) days of the date they receive notice of dismissal or determination appealed from or, if the other party appeals, within three (3) days of the other party appealing, whichever is later. The appeal must be submitted in writing to David Pickering, who serves as the appeal officer. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

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

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and transmit a written decision to the parties within seven (7) days that explains the outcome of the

appeal and the rationale.

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

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the University strives to issue the appeal officer's written decision within (21) days of an appeal being filed.

#### **XIV. Potential Outcomes Following a Finding of a Policy Violation**

##### **A. Sanctions**

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. The potential disciplinary sanctions that may be imposed along with other corrective actions for a finding of a Policy violation are set forth below. One or more of these sanctions may be imposed at the discretion of the University. Any sanctions imposed will be proportionate with the violation. In imposing disciplinary sanctions, the University will consider the impact of separating a student from their education.

- Written or verbal apology;
- Discrimination, harassment or consent education;
- Drug or alcohol counseling,
- Community service;
- Verbal or written warning;
- Probation;
- Suspension; and
- Dismissal or other separation from the University.

##### **B. Remedies**

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the University may also offer additional measures, and/or take other action, to eliminate any hostile environment caused by the Title IX Sexual Harassment, prevent the recurrence of any Title IX Sexual Harassment, and remedy the effects of the Title IX Sexual Harassment on the Complainant and the

University community. Remedies that may be offered or provided to a Complainant may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Additional corrective actions may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support for one or both parties. Corrective actions and remedies at the level of the institution may include but are not limited to providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations.

In no event will a party in matters involving an alleged violation of the Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

#### **XV. Advisors of Choice**

From the point a Formal Complaint is made, and until an investigation, hearing, and appeal are complete, both parties are entitled to bring an advisor of their choice to any meetings, interviews, and hearings that are part of the investigation, resolution, and appeal process, provided that the involvement of the advisor does not result in undue delay of the meeting or interview. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in "Hearing," the role of the advisor of choice is limited to consulting privately with the party they accompany. The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the University about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in this Section and "Hearing," including engaging in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual investigating or resolving the complaint, the University may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in "Hearing," the University will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The University will have sole discretion to select the advisor it provides. The advisor the University provides may be, but is not required to be, an attorney.

The University is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in "Hearing."

## **XVI. Treatment Records and Other Privileged Information**

During the investigation and hearing processes, the investigator and adjudicator, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege;

unless the University has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be.

## **XVII. Sexual History**

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

## **XVIII. Informal Resolution**

At any time after the parties are provided written notice of the Formal Complaint as specified in "Notice of Formal Complaint," and before the completion of any appeal specified in "Appeal," the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties

and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another University official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

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

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Title IX Sexual Harassment against a student.

#### **XIX. Presumption of Non-Responsibility**

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

#### **XX. Conflicts of Interest, Bias, and Procedural Complaints**

The Title IX Coordinator, investigator, hearing officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. The parties will be notified of the identities of the decision maker and appeal reviewer for their proceeding before those individual(s) initiate contact with either party. Any party who believes one or more of these individuals has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. If a party believes that the investigator, hearing officer, appeals officer, or informal resolution facilitator has a conflict of interest, the party should raise the concern to the Title IX Coordinator. If a party believes the Title IX Coordinator has a conflict of interest, the party should raise the concern to David Pickering whether the requesting party is a student an employee. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in Section [XX] or otherwise.

#### **XXI. Objections Generally**

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

#### **XXII. Other Rights and Academic Freedom**

The University will construe and apply these Title IX Sexual Harassment Procedures consistent with the principles of academic freedom specified in the Faculty Handbook. In no case will a Respondent be found to have committed Title IX Sexual Harassment based on expressive conduct that is protected by the principles of academic freedom specified in the Faculty Handbook.

#### **XXIII. Recordings**

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the University and is considered property of the University, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the University is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

#### **XXIV. Vendors, Contractors and Third Parties**

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

#### **XXV. Confidentiality**

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

Notwithstanding the foregoing, the University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the University's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this Policy. In all interviews and meetings held in connection with these Title IX Sexual Harassment procedures, the University will protect the privacy of the participating parties and witnesses as required by FERPA and other applicable law.

While the University will maintain confidentiality specified in this Section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a

particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

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

#### **XXVI. Other Violations of this Policy**

Alleged violations of the Policy, other than violations of the prohibitions on Title IX Sexual Harassment, Sexual Misconduct, and Retaliation, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other University policies and standards for employees.

#### **XXVII. Signatures and Form of Consent**

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where these Title IX Sexual Harassment Procedures provide that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

#### **XXVIII. Deadlines, Time, Notices, and Method of Transmittal**

Where these Title IX Sexual Harassment Procedures specify a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the University where, in the University's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the University's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal

officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The University officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the University.

The parties will be provided written notice of the modification of any deadline or time period specified in this Policy, along with the reasons for the modification.

Where these Procedures refer to notice being given to parties “simultaneously,” notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in these Procedures, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using University email addresses.

A party is deemed to have received notice upon transmittal of an email to their University email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in these Procedures, the sufficient time to be provided will be determined in the sole discretion of the University, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant University officials; approaching holidays or closures; and the number and length of extensions already granted.

#### **XXIX. Other Forms of Discrimination**

These Title IX Sexual Harassment Procedures apply only to (1) complaints of Title IX Sexual Harassment or (2) complaints that include acts of both Title IX Sexual Harassment and Sexual Misconduct, where the allegations involve the same parties or are otherwise materially related. Complaints of Sexual Misconduct, as defined in the Policy, are governed by the University’s Sexual Misconduct Procedures. Other complaints of sex discrimination will be governed by the Student Code of Conduct for students, the Faculty Handbook for faculty, or other University policies and standards for employees.

#### **XXX. Outside Appointments, Dual Appointments, and Delegations**

The University retains discretion to retain and appoint suitably qualified persons who

are not University employees to fulfill any function of the University under this Policy, including, but not limited to, the investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

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

The functions assigned to a given University official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

### **XXXI. Training and Education**

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

The University will also provide education to students and employees on issues relating to Title IX Sexual Harassment and the University's policies and procedures that complies with the Illinois Preventing Sexual Violence in Higher Education Act and any other applicable federal or state law.

### **XXXII. Institutional Crime Reporting**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") requires institutions of higher education to compile and publish statistics on certain criminal offenses including sexual assault (i.e., non-consensual sexual intercourse), domestic and dating violence and stalking that occur on or adjacent to school properties. Although the University strongly encourages everyone to report any crime that occurs on or around campus, the Clery Act requires certain crimes reported to a Campus Security Authority (CSA) be included in those annual statistics. Specifically, the Clery Act defines a Campus Security Authority as:

- A campus police or security department;
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police or security department, such as an individual who is responsible for monitoring entrance into institutional property;
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report

- criminal offenses; or
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.

All crimes reported and documented under the Clery Act will be recorded in an anonymous manner that neither identifies the specifics of the crime nor the identity of the Complainant.

The University is also obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when the warning could potentially compromise law enforcement efforts or identify the victim/survivor). A Complainant under this policy will never be identified in a timely warning.

### **XXXIII. Mandatory Reporting of Child Abuse, Child Sexual Abuse, and Child Neglect**

All University employees<sup>1</sup> are mandated reporters under the Illinois Abused and Neglected Children's Reporting Act. Mandated reporters are required to immediately report to the Illinois Department of Children and Family Services (DCFS) suspected child abuse and/or neglect when they have "reasonable cause to believe" that a child known to them in their professional or official capacity may be an abused or neglected child. This is done by calling the DCFS Hotline at 1-800-252-2873 or 1-800-25ABUSE.

- A "child" means any person under the age of 18 years, unless legally emancipated.
- "Abused child" means a child whose parent or immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child or a paramour of the child's parent:
  - Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
  - Creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
  - Commits or allows to be committed any sex offense against such child;
  - Commits or allows to be committed an act or acts of torture upon such child;
  - Inflicts excessive corporal punishment;

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<sup>1</sup> University volunteers having regular contact with minors are also Mandated Reporters.

- Commits or allows to be committed the offense of female genital mutilation;
- Causes to be sold, transferred, distributed or given to such child under 18 years of age, a controlled substance, except for controlled substances that are prescribed and dispensed to such child in a manner that substantially complies with the prescription; or
- Commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor or trafficking in persons.

There is no option for confidentiality in the case of suspected child abuse, child sexual abuse and/or child neglect. In other words, all mandated reporters with reasonable cause to believe that a child known to them in their professional capacities may be abused, sexually abused or neglected are required to contact DCFS. Mandated reporters must also notify the Title IX Coordinator that a DCFS report has been made.

**XXXIV. Recordkeeping**

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

All files relating to complaints processed under these Procedures will be maintained by the Lead Title IX Coordinator. If a student has been found responsible for violating the Policy, that finding remains a part of that student's conduct record.

**XV. Discretion in Application**

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

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

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

### **XXXVI. Changes in these Procedures**

The University reserves the right to make adjustments and changes in these procedures at any time. Last updated August 14<sup>th</sup>, 2023.