

Resolution Process for Alleged Violations of Sex Discrimination Policy (“Resolution Process”)

I. Overview¹

The University will act on any Notice of a violation of its Policy Prohibiting Sex Discrimination (“the Policy”) that the Title IX Coordinator or any other Mandated Reporter receives by applying the Resolution Process below.

The procedures below apply to all allegations of Sex Discrimination or other conduct prohibited by the Policy, subject to the University’s jurisdiction. Unionized employees are subject to the terms of their agreements to the extent those agreements do not conflict with federal or state compliance obligations.

Capitalized terms not defined herein apply the definitions contained within the Policy.

II. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other University policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these procedures. In such circumstances, the Title IX Coordinator may consult with University officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the applicable University policy.

Notwithstanding, assisting individuals who are reporting Sex Discrimination is the University’s primary interest. In order to facilitate reporting, the Vice-President of Student Affairs may choose not to charge individuals who report Sex Discrimination or other conduct prohibited by this Policy and any material witnesses with Student Code of Conduct violations for behavior that would otherwise be considered minor violations (for example, consuming alcohol underage or consuming illegal drugs).

III. Initial Assessment

The University strives to investigate and resolve all Notices of possible violations of the Policy within a reasonable timeframe.

Receipt of Notice or a Complaint that includes allegations of Sex Discrimination or other Policy

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violations, will trigger an initial assessment. This assessment will be conducted by the Title IX Coordinator, and may include consultation with one or more of the following: Vice President of Human Resources, Dean of Student Life, and/or Associate Vice-President of Public Safety. The assessment will:

- A. Assess whether the conduct as reported, if true, would reasonably constitute a violation of this Policy.
- B. Assess whether the University has jurisdiction over the reported conduct.
- C. Determine if any immediate risk of harm to an individual or the community exists.
- D. Implement any emergency removal processes to address the risk of harm to an individual or the community, if necessary.
- E. Offer and coordinate supportive measures for the Complainant and/or Respondent.
- F. Notify the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Live Hearing Process.
- G. Determine whether the Complainant wishes to initiate a Complaint.
- H. Notify the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Live Hearing Process described below, if the Complainant chooses to file a Complaint.

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options.

The Office of Compliance and Integrity will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the initial assessment determines that the alleged conduct, if true, would constitute a violation of this policy and that the University has jurisdiction to address the issue and the Complainant wants to pursue an investigation, the University will appoint an investigator who will provide the Parties with a Notice of Investigation and Allegation(s) (“NOIA”) and initiate an investigation. The format of the investigation may vary depending upon such factors as the Complainant’s desire to pursue disciplinary action, the risk posed to the community, and the nature of the alleged behavior. In all instances the University’s investigation will be thorough and will be aimed at gathering all relevant information related to the Complaint. If the Complainant chooses to pursue criminal charges, the University Police Department will work with the Complainant to pursue criminal charges, connect the Complainant with the appropriate police department (if the reported incident occurred off campus), or connect the Complainant with the appropriate community resource.

If any Party indicates (either verbally or in writing) that they want to pursue an informal resolution option, the Title IX Coordinator will assess whether the matter is suitable for informal resolution and refer the matter accordingly, upon voluntary consent of both parties.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator, though the Complainant can elect to initiate one later, if desired).

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the University

cannot ensure equal access without initiating a Complaint. When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

IV. Emergency Removal Process

The initial assessment will involve consideration of whether emergency removal is necessary. If it is determined that a Respondent should be removed from the University's education program or activity on an emergency basis, then the University will convene the relevant Safety and Risk Analysis Team to conduct a safety and risk assessment. If the result of this assessment indicates an immediate and serious threat to the physical health or safety of any student or other individual arising from the allegations of Sex Discrimination or other conduct prohibited by this Policy they may be subject to emergency removal. If emergency removal is required, the Respondent will be provided notice and opportunity to promptly challenge this decision following removal. Where it is deemed appropriate, the University may issue an interim suspension for a student Respondent or issue an administrative leave for a staff/faculty Respondent.

The University will not disclose of personally identifiable information it obtained in the course of assessing the grounds for emergency removal unless (i) the College has written consent from the person with the legal right to consent to the disclosure, (ii) the College must disclose the information to a parent, guardian, or other legal representative with a legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue, (iii) the disclosure is necessary to address the substantial threat, or (iv) Federal or State law requires the disclosure.

V. Supportive Measures

The University will offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the University's education program or activity or provide support during the Resolution Process. These supportive measures may include those described in the Policy or other measures as deemed appropriate by the University.

VI. Dismissal of a Complaint

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

- A. The University is unable to identify the Respondent after taking reasonable steps to do so
- B. The University no longer enrolls or employs the Respondent and the Respondent does not otherwise participate in the University's program or activity
- C. A Complainant voluntarily withdraws any or all of the allegations in the Complaint in writing, the Title IX Coordinator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute a violation of the Policy even if proven
- D. The University determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven. Before dismissing the Complaint, the University will make reasonable efforts to clarify the allegations with the Complainant
- E. The University determines that the conduct alleged in the Complaint, if proven, does not meet the Office of Compliance and Integrity's jurisdictional limits

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

When a Complaint is dismissed, the University will, at a minimum:

- A. Offer supportive measures to the Complainant as appropriate
- B. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate, and
- C. Take other prompt and effective steps, as appropriate, through the Office of Compliance and Integrity to ensure that sex discrimination does not continue or recur within the University's education program or activity

Both the Complainant and the Respondent (where notified of a Complaint) have the right to appeal the decision of the Title IX Coordinator to dismiss a Complaint. The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond. Parties have (5) business days to appeal the dismissal decision and may only appeal on the grounds of:

- A. The Title IX Coordinator investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome,
- B. procedural irregularity that would change the outcome of the appeal to dismiss
- C. New evidence that would change the outcome and that was not reasonably available when the dismissal was decided

Throughout the dismissal appeal process, the University will:

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

The dismissal appeal should be submitted in writing to the Title IX Coordinator. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the petition with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. The Title IX Coordinator will then forward the appeal and all relevant materials to an appeal officer and the appeal will follow the process outlined in section X(D) below.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the appeal officer will deny the request, and the Parties, their Advisors, if any, and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the appeal

officer will notify all Parties and their Advisors, if any, and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, Compliant dismissal appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The appeal officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.

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

VII. Advisors

Complainants and Respondents may choose an advisor of their choice to accompany them during all meetings, interviews, and hearings within the Resolution Process, including intake. An advisor is any individual who provides the Complainant or Respondent support, guidance, or advice. This advisor may be a parent, a community advocate, or any other person (including an attorney). The advisor's role is purely supportive; the advisor may not speak on behalf of the Complainant or Respondent or otherwise directly participate in the investigation process.

Although the advisor may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their advisors should ask for breaks to allow for private consultation.

A Party may elect to change advisors during the process and is not obligated to use the same advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change advisors. If a Party changes advisor, consent to share information with the previous advisor is assumed to be terminated, and a release for the new advisor must be submitted.

The University may permit Parties to have more than one advisor, or an advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Office of Compliance and Integrity's sole discretion and will be granted equitably to all Parties.

Advisors are entitled to the same opportunity as their advisee to access relevant and not otherwise impermissible evidence, and/or the same written investigation report that accurately summarizes this evidence. Advisors are expected to maintain the confidentiality of the records the University shares with them. Advisors may not disclose any University work product or evidence the University obtained solely through the Resolution Process for any purpose not explicitly authorized by the University.

Any advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the University's established rules of decorum will be warned. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the Party to use a different advisor.

VIII. Informal Resolution

The informal resolution process is *available for all Complaints except where application of an informal*

resolution would conflict with Federal, State, or local law or for Complaints that involve the sex-based harassment of a student by an employee.

An informal resolution is a mechanism for achieving resolution between Parties without resolving the Complaint through the University's Live Hearing Process. Once the University obtains Notice of a Complaint, the Parties will be offered informal resolution. If both Parties agree to this method of resolution then each Party will sign the informal resolution form and a notice of informal resolution will be sent out to both Parties. The notice of informal resolution will include:

- A. The allegations
- B. The requirements of the informal resolution process
- C. That any Party has the right to withdraw from the informal resolution process and initiate or resume the formal process at any time before agreeing to a resolution
- D. That if the Parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume the live hearing process arising from the same allegations
- E. The potential terms that may be requested or offered in an informal resolution agreement including notice that an informal resolution agreement is binding only on the Parties
- F. What information University will maintain and whether and how the University could disclose such information for use in a live hearing process if such a process is initiated or resumed

Parties choosing informal resolution do not forego access to supportive measures. Both the Complainant and the Respondent may choose to end an informal resolution and begin a formal investigation at any time prior to a final determination.

Either Party may request informal resolution. If the Title IX Coordinator approves and both Parties voluntarily agree to participate, the formal process will be adjourned while the informal resolution process is pending; if, however, during the informal resolution process, no agreement is reached, the formal grievance process will resume.

Upon initiation of the informal resolution process, the Title IX Coordinator will assign the matter to a trained informal resolution mediator. The mediator will consult with each Party separately in an effort to reach a resolution that best meets the interests and needs of the Parties. Unless the Parties mutually agree, they will not be together in the same space as part of the informal resolution process. Neither the Complainant nor the Respondent may appeal a final informal resolution agreement. At the end of informal resolution process, the mediator will provide a copy of the informal resolution agreement signed by all Parties.

Failure to comply with the signed informal resolution agreement may result in further disciplinary sanctions, either Party may file violations of the informal resolution agreement in writing to the Title IX Coordinator for review and resolution.

IX. Notice of Investigation and Allegations

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

the Parties in writing with sufficient time for the Parties to prepare a response before any interview.

The NOIA typically includes:

- A. The University's live hearing procedure and any informal resolution process
- B. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute a Policy violation, and the date(s) and location(s) of the alleged incident(s)
- C. Retaliation is prohibited
- D. The Respondent is presumed not responsible for the alleged Policy violation until a determination is made at the conclusion of the Resolution Process. Prior to such a determination, the Parties will have the opportunity to present relevant and not otherwise impermissible evidence to a trained impartial Decision-maker
- E. The Parties may obtain an advisor of their choice who may be, but is not required to be, and attorney
- F. The Parties are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. If the University provides access to an investigative report, the Parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon request of any Party
- G. That knowingly submitting false statements or knowingly submitting false information during the live hearing process is prohibited by the Policy

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

If, in the course of an investigation, the University decides to investigate additional allegations of an applicable Policy violation by the Respondent toward the Complainant that are not included in the NOIA provided or that are included in a Complaint that is consolidated, the University will notify the Parties of the additional allegations.

X. Evidence

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used, regardless of whether they are relevant:

- A. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality
- B. A Party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the University obtains that Party's or witness' voluntary, written consent for use in its Resolution Process
- C. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone

other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The University must redact impermissible evidence that is contained within documents or evidence otherwise produced as relevant to the allegations. The University may redact information is not relevant to the allegations in the Complaint but is contained within documents or evidence relevant to the allegations.

XI. Investigative Process

The University will provide for adequate, reliable, and impartial investigation of Complaints.

The burden is on the University – not the Parties – to conduct an investigation that gathers sufficient evidence to determine whether a Policy violation occurred.

Investigations into allegations of Policy violations will usually include interviews with the Complainant, Respondent, and all relevant witnesses. The University will provide to an individual whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the individual to participate. The University will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. The Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within three (3) days, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Upon completion of the collection of the evidence in the investigation, the appointed investigators will submit the evidence collected in the investigation that is relevant and not otherwise impermissible to both Parties to inspect, review and respond to the evidence. The Parties will have (10) business days to inspect, review, and respond to the evidence in the case which may include requesting the collection of additional evidence. Both Parties are restricted from disseminating information contained in the evidence file and both Parties are restricted in their responses to 2,000 words or about four pages single spaced.

Upon completion of the investigation, the investigators will complete the investigation report which will include the nature of the allegations reported, a summary of the information gathered from interviews, including statements by all Parties, any physical or documentary evidence directly related to the allegations that was reviewed and the addendums of each Party's response. The Parties will receive the investigation report at least ten days before the prehearing conference and the Parties may choose to submit a response to the investigative report limited to a 2,000-word response or about four pages within (5) business day prior to the prehearing conference. If there is a response to the investigative report by the opposing Party, the Parties and their advisors will be provided the response at least (2) business days prior to the prehearing conference. **Once this is complete the investigative phase is over.**

The University aims to complete investigations under this Policy within a reasonable time frame. In some circumstances, an extension of this timeframe may be required on a case-by-case basis for good cause and with notice to the parties that includes the reason for the extension. Possible conditions that would extend the time needed to complete an investigation include, but are not limited to, the complexity of the reported incident, number of witnesses involved, related and on-going criminal investigations, school breaks and vacations or unforeseen circumstances. If a delay is necessary, the University will notify all Parties of the reasons for the delay and the expected adjustment in timeframes. In all cases, the University will employ a process which balances principles of thoroughness and equity with promptness.

The Complainant and the Respondent have the opportunity to challenge the participation of the investigators based upon bias or conflict of interest. This challenge must be submitted to the Title IX Coordinator in writing and it must be done within (2) business days of the identification of the investigators. The Title IX Coordinator will respond to the challenge within (2) business days.

XII. Live Hearing

Once an investigation is conducted and an investigation report is submitted to the Title IX Coordinator, the live hearing process will begin. The University aims to complete the live hearing process, including notifying all Parties of the outcome of the investigation, within a reasonable time frame. The live hearing includes the hearing panel, sanction officers, and appeal officers (“Live Hearing Team”). The hearing panel will consist of two faculty or staff members and the Decision-maker however, the Decision-maker will make the final decision.

The Complainant and the Respondent will have the opportunity to challenge the participation of any member of the Live Hearing Team based upon conflict of interest or bias. This challenge must be submitted to the Title IX Coordinator in writing. This must be done within (2) business days of the identification of the Hearing Panel members, Sanctioning Officers, and Appeal Officers. It will be up to the discretion of the Title IX Coordinator to determine if these members can serve impartially. The Title IX Coordinator will respond to the challenge within (2) business days.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the University’s resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

A. Prehearing Conference

The Complainant and the Respondent will be given written notice of the date and time for the prehearing conference within (5) business days of the Title IX Coordinator sharing the investigation report and evidence with both Parties. Additionally, the Parties through their advisors have the opportunity to send questions via email to the Title IX Coordinator for a review by the Decision-maker to determine whether they are relevant and not otherwise impermissible. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted. The Decision-maker will give a Party an opportunity to clarify or revise a question that the Decision-maker determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

The Decision-maker will have (5) business days to complete the relevancy review before the prehearing conference. The prehearing conference should be scheduled at minimum (10) business days after the investigation report and evidence are shared. During the prehearing conference, the Parties and their advisors, if any, will affirm that they have received the documents necessary for the hearing, resolve any current issues before the hearing, agree to any undisputed facts of the case, review the witness lists of both Parties, and have the Decision-maker advise the Parties of which questions have not passed the relevancy review and why. The Parties and their Advisors should be prepared during the prehearing conference to identify any witnesses to whom they plan to call during the live hearing. The Parties will also have the opportunity to request any accommodations necessary for the hearing. The accommodations will be evaluated by the Office of Disability Services for students and the Assistant Vice President of Human Resources for employees. At the close of the prehearing conference, the Decision-maker will review the rules of decorum for the virtual hearing. The hearing will be scheduled at least seven (7) business days after the prehearing conference date.

Decisions with respect to whether to admit new or rebuttal evidence after the Parties have reviewed the evidence and responded to the investigation report will be made by the Decision-maker. Such evidence should be brought to the attention of the Decision-maker at the prehearing conference. New evidence is evidence that was not available at the time the hearing notice was sent, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter. Rebuttal evidence is evidence presented to contradict other evidence which could not have been reasonably anticipated by a Party to be relevant information in the fact-gathering stage. All evidence that the Decision-maker decides is relevant and not otherwise impermissible will be provided to the investigator who will share the evidence with both Parties after the prehearing conference for use at the hearing. No new and/or rebuttal evidence will be accepted at the hearing.

B. Live Hearing

The live hearing will occur via video conferencing technology. The Parties will be in separate rooms provided by the University on campus for the live hearing. During the live hearing the Decision-maker and Parties must be able to simultaneously see and hear a Party or witness while that person is speaking. Each Party will receive a link and passcode to the hearing at least 24 hours prior to the hearing date. The witnesses will be in breakout rooms when they are not participating in the hearing process. The Decision-maker will have sole discretion in facilitating the virtual hearing and the Decision-maker will determine what steps to take in the event there are technical difficulties. The Decision-maker will record the hearing; however, no other Party shall make any recording of the hearing. The recording of the hearing will be made available on request of the Complainant(s) or the Respondent(s) in accordance with the University's FERPA records request procedure.

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

The Decision-maker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible. The Decision-maker will not draw and inference about sex-based harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

C. Outcome

The Decision-maker is responsible for reviewing all relevant and not otherwise impermissible evidence for its persuasiveness. This determination will be based on a preponderance of the evidence standard (i.e., whether it is more likely than not that a violation occurred). If the Decision-maker is not persuaded under the preponderance of the evidence standard that a Policy violation occurred, whatever the quantity of the evidence, the Decision-maker will not determine that a Policy violation occurred.

Upon making a decision on whether a Policy violation has occurred, the Decision-maker will be required to write a written report summarizing their findings and the factual bases for them. The Decision-maker will send all case documents and the hearing video to the sanctioning officer for review. The sanctioning officer will issue any sanctions in a case in which a violation has been found to occur and return the determination in letter form (“Outcome Letter”) to the Decision-maker. The Decision-maker will deliver the Outcome Letter simultaneously to both Parties via email. The Outcome Letter will outline the decision made and the right to appeal the decision, taking into account any applicable privacy issues.

The Outcome Letter or written findings will include: the allegations; the procedural history from receipt of the Notice to the outcome of the Live Hearing, notifications to the Parties, interviews with Parties and witnesses, site visits (if any), methods used to gather other information, the hearing; findings of fact; conclusions regarding the policy as applied to the facts; a rationale regarding the result of each allegation, a determination regarding responsibility, disciplinary sanctions, if any, along with remedies designed to restore or preserve equal access to the University’s education program or activity or working environment, and information to appeal the decision.

The University will not discipline a Party, witness, or others participating in the Live Hearing for making a false statement based solely on the determination whether a Policy violation occurred.

D. Appeal

Parties to the case are informed of their right to appeal through the Policy in writing and electronically. Further, the Complainant and Respondent receive written notice of their right to appeal in their Outcome Letters which provides the determination of whether the University’s policy has been violated.

Except as noted above, both the Complainant and the Respondent of all classifications (students, staff and faculty) have the right to appeal the decision of the Title IX Coordinator to dismiss a Complaint or the Decision-makers final decision in the Outcome Letter. Parties have (5) business days to elect to appeal.

An appeal must be filed within ten (10) business days of the date of the Outcome Letter. An appeal may only be filed on three bases: 1) procedural irregularity that affected the outcome of the matter, 2) the Live Hearing Team had a conflict of interest or bias that changed the outcome of the matter, or 3) newly discovered evidence that could change the outcome of the matter and that was not reasonably available when the determination or dismissal was made.

The appeal should be submitted in writing to the Title IX Coordinator. The Title IX Coordinator will forward the appeal and all materials from the investigation to an appeal officer. The choice of the appeal officer is at the sole discretion of the University, provided that the appeal

officer shall have had no involvement in the prior proceedings related to the Complaint in which the appeal is made and that the appeal officer shall have been trained consistent with the Title IX regulations. The appeal office will implement the appeal process equally for the Parties.

The appeal officer will notify the Parties in writing of any appeal and that the University will provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome. The appeal officer will review all evidence relied upon by the Decision-maker, the recording of the live hearing, and the decision Outcome Letter, and the information provided in the appeal documents in making a determination whether a violation occurred. Using a preponderance of the evidence standard, the appeal officer will issue an appeal outcome letter to both Parties detailing the decision and any applicable sanctions or remedies. Absent extenuating circumstances, the appeal officer will issue the appeal outcome letter within fifteen (15) business days of the date the appeal is filed with the Title IX Coordinator.

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

XIII. Corrective Action

The University reserves the right to impose different methods of corrective action depending on the severity of the Policy violation or depending on the number of violations. The sanctioning officer in each case has sole discretion to determine appropriate corrective action, which may deviate from the guidelines set forth below.

The University will consider concerns and rights of both the Complainant and the Respondent. Additionally, the University will consider the current conduct record of a Respondent found responsible to determine the appropriate corrective measure.

Tier 1: Violations of Policy prohibitions on Sex Discrimination Discriminatory Harassment on the basis of Sex, Sexual Exploitation, Retaliation, or Unauthorized Disclosure.

Tier 2: Second violation of Policy prohibitions on Sex Discrimination, Discriminatory Harassment on the basis of Sex, Sexual Exploitation, Retaliation, or Unauthorized Disclosure; Additionally, a single violation of Sex-based Harassment, depending on severity.

Tier 3: Third or more violation of Policy prohibitions on Sex Discrimination, Discriminatory Harassment on the basis of Sex, Sexual Exploitation, Retaliation, or Unauthorized Disclosure; Additionally, second or more violation of Sex-based Harassment, or a single violation of Sex-based Harassment, depending on severity.

A. Student or Student Group/Organization Corrective Action

Tier 1:

Probation Type: Minimum 1-year Disciplinary Probation to Suspension

Education or Remediation: Corrective measures include, but are not limited to, the

following: online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing probation and housing relocation for residents as appropriate, academic class section reassignment as appropriate, no contact order or negative no contact order as appropriate.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

Tier 2:

Probation Type: Minimum 1-year University Probation to Expulsion

Education or Remediation: Corrective measures include, but are not limited to, the following: online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing termination for residents as appropriate, academic class section reassignment as appropriate, no contact order or negative no contact order as appropriate, persona non grata as appropriate.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

Tier 3:

Probation Type: Minimum 1-year University Suspension to Expulsion

Education or Remediation: Corrective measures include, but are not limited to, the following: Online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing termination for residents as appropriate, removal from academic courses as appropriate, no contact order or negative no contact order as appropriate campus-wide persona non grata as appropriate.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

B. Employee Corrective Action

The University reserves the right to impose different methods of corrective action depending on the severity of the Policy violation or depending on the number of violations. The sanctioning officer in each case has sole discretion to determine appropriate corrective action, which may deviate from the guidelines set forth below.

The University will consider concerns and rights of both the Complainant and the Respondent. Additionally, the University will consider the current conduct record of a Respondent found responsible to determine the appropriate corrective measure.

Tier 1:

Probation Type: Warning or Reprimand

Education or Remediation: The University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

Tier 2:

Probation Type: Warning to Suspension

Education or Remediation: Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

Tier 3:

Probation Type: Suspension to Termination

Education or Remediation: Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

The University reserves the right to impose probation or corrective action steps that deviate from those described in this section when the University determines in its sole discretion that circumstances warrant deviation.

XIV. Withdrawal or Resignation Before Complaint Resolution

A. Students

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

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the University in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. Other relevant University offices may be notified, accordingly.

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

B. Employees

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

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

XV. Revisions

These procedures succeed any previous procedures addressing relevant Policy violations for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

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

This document does not create legally enforceable protections beyond the protections of the background

federal and state laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.