

2024 TITLE IX POLICY

POLICY INTRODUCTION

The University is committed to providing a learning and working environment free of discrimination, harassment or violence. Members of the Clark University (the “University”) community, including students, faculty, applicants for university employment or admission to educational or university-sponsored programs or activities, or any other person employed by, contracted or volunteering with, or a guest or visitor of the University, have the right to be free from sex discrimination, sex-based harassment, and sexual violence. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

The Title IX Sex Based Harassment Policy has been amended to be consistent with the Title IX Regulations that became effective August 1, 2024. Additionally, this policy is intended to comply with the reauthorized Violence Against Women Reauthorization Act of 2022 (“VAWA”), including the Campus SaVE Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), and the Massachusetts 2021 Campus Sexual Assault Law.

The University encourages individuals to come forward if they have experienced any form of sex-based harassment, discrimination or sexual violence. The University will process all reports, regardless of when and where the conduct occurred, to determine whether the conduct occurred in the context of an educational program or activity or had continuing effects on campus or in a university education program or activity. The University has appointed a Title IX Coordinator to oversee and manage the University’s response and resolution process of reports of sex-based harassment, discrimination and sexual offenses and to ensure a fair and neutral process for the resolution of such complaints.

Note: Information contained within this policy is subject to change by the University at any time, in accordance with its Policy on Policies. The University will make reasonable attempts to notify the community in a timely manner of any changes through the website or email postings, or other methods deemed appropriate by University administration. Unless otherwise stipulated, any changes shall take effect upon publication on the University’s website.

I. SCOPE OF THE POLICY

The Title IX Sex Based Harassment Policy covers conduct including, but not necessarily limited to, sex-based harassment, sex discrimination, sexual assault, relationship violence, stalking, and retaliation. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sexual offenses can occur between any persons regardless of sex and gender identity.

This policy is applicable to Clark University students, faculty, staff, applicants for university employment or admission to educational or university-sponsored programs or activities, or any other person employed by, contracted or volunteering with the University. Guests and visitors to the University are expected to adhere to this policy but may be accorded different procedures than those outlined in this policy. Alleged conduct that occurs on or after August 1, 2024 will be processed under this policy.

II. PROHIBITED CONDUCT

Sex-Based Harassment:

Quid Pro Quo Harassment: an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or implicitly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct

Hostile Environment Harassment: unwelcome sex-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e. creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the University's education program or activity.

Sexual Assault:

Sexual Assault includes forcible and non-forcible offenses.

Sexual Offenses, Forcible: Any sexual act directed against another person without the consent of the complainant, including instances in which the complainant is incapable of giving consent:

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensual), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Non-Forcible

The following acts are considered non-forcible offenses:

Incest: Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Massachusetts law.

Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 18 years of age.

For a complete reading of this definition please see: https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf

Dating Violence: meaning violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: felony or misdemeanor crimes committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Sex-Based Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to:

- Acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens,

- or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation: intimidation, threats, coercion, or discrimination against any person by a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process.

III. GENERAL DEFINITIONS OF THE POLICY

Advisor: An advisor is any individual who provides guidance and assistance to a party throughout a resolution process under this policy. At the direction of a party, an advisor may be copied on communications with the party, and have access to documents and materials made available to the party. An advisor may represent, speak, or act on behalf of a party, with the exception of hearings – where the advisor is prohibited from engaging in such conduct. Additionally, an advisor may not act to impede, obstruct, delay, or undermine any steps taken under this policy.

Amnesty: Individuals who make a report of sexual offenses will not be disciplined for University policy violations that occur around the time of the alleged sexual offenses, unless the conduct risks the health or safety of another or involves plagiarism, cheating, or other forms of academic dishonesty.

Appeals Officer: The person charged with reviewing and making determinations regarding appeals filed in connection with the procedures used or applied under this policy.

Complainant: A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

Complaint: An oral or written request that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination.

Conduct Officer: An individual charged with making a determination regarding whether this policy, was violated and if so, what sanctions will be applied.

Consent: Effective, clear consent is defined as a freely and affirmatively communicated willingness to participate in sex-based activity, expressed either by words or clear, unambiguous actions.

- It is the responsibility of the initiator of the sex-based activity to ensure that they have the other person's consent to engage in sex-based activity.
- Consent to sex-based activity may be withdrawn at any time, as long as the withdrawal is communicated clearly by words or actions.

Consent cannot be assumed because of the existence of a dating relationship between the persons involved or due to the existence of a previous sexual relationship between the persons.

- Silence, in and of itself, cannot be interpreted as consent. Consent must be present throughout the sex-based activity by all parties involved.
- Consent to one form of sex-based activity does not imply consent to other forms of sex-based activity.
- The respondent or complainant's use of alcohol or other drugs does not diminish the respondent's responsibility.
- Consent may never be given by minors (in Massachusetts, those not yet sixteen [16] years of age), those who have a mental disability, those who are incapacitated as a result of alcohol or other prescription, lawful or illicit drug consumption (voluntary and involuntary), or those who are unconscious, unaware, or otherwise physically helpless.

Consenting Relationships: Consensual romantic and sexual relationships between employees and undergraduate students or between supervisors and subordinates are strictly prohibited, and these relationships between employees and graduate students are strongly discouraged, must be immediately reported, and in some cases might be deemed impermissible. These relationships cause special concerns with respect to the existence or appearance of exploitation, abuse of position, or favoritism. All employees should understand that there are substantial risks in even an apparently consenting relationship where a power/authority difference exists. These relationships can and often do lead to charges of sexual harassment, hostile work environment on the basis of sex-based favoritism, or violation of our nepotism policy. Administrators and supervisors, who by virtue of their level of responsibility and authority, bear a special burden of accountability. If a consensual relationship develops, the involved individuals have an affirmative obligation to advise their supervisor and either the Title IX Coordinator or CHRO/Director of Human Resources so that an assessment can be made relative to whether the relationship poses any challenges that need to be addressed to ameliorate any real or perceived adverse impact to the involved individuals or others. The University reserves the right to make employment changes and impose disciplinary measures if romantic relationships develop between employees and/or students that appear problematic.

Days: Unless otherwise specified, any reference to “days” refers to university business days and does not include university holidays, closures, or weekends.

Disciplinary Sanctions: Consequences imposed on a respondent following a determination under Title IX that the respondent violated the University’s prohibition on sex-based conduct.

Evidentiary Standard: The standard used in investigation and adjudication of alleged violations of this policy is preponderance of evidence, meaning, when the evidence shows that it is “more likely than not” that the alleged conduct occurred.

Force: The term “force” includes the actions as articulated in Section II Prohibited Conduct, as well as the use of any of the following:

- Physical force, violence, the presence or use of a weapon
- Threats or harassment
- Intimidation, abuse of real or perceived power or authority, implied threats
- Coercion or duress; this includes pressuring another person to perform or engage in sexual activity.

Hearing Board: Any person or persons authorized by the University to conduct a live hearing in order to determine whether, by a preponderance of evidence, a respondent has engaged in sex-based harassment, discrimination, other sexual offenses, and any other impermissible conduct, pursuant to this or other university policies, that is directly related to the specific case. When serving as a Hearing Board member in a particular matter, a person will not also serve as Investigator, Title IX Coordinator, and will not hear and decide appeals. The Conduct Officer is not precluded from serving as a member of the Hearing Board.

Incapacitation: Incapacitation is the lack of physical or intellectual capability to consent. Being incapacitated differs from being intoxicated or drunk. A person who is incapacitated cannot understand the fact, nature, or extent of sexual activity. Incapacitation may be a result of consuming alcohol, drugs or other intoxicating substances, being unconscious or asleep, and/or other factors that could alter one’s faculties. It is a violation of this policy to engage in sexual activity with a person who is incapacitated, regardless of whether the person appeared to be a willing participant.

Evidence of incapacitation may be detected from context clues, such as slurred speech; bloodshot eyes; the smell of alcohol on the breath; shaky equilibrium; vomiting; outrageous or unusual behavior; and/or unconsciousness.

This policy also covers someone whose incapacitation results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called “date-rape” substance or drug. Possession, use, and/or distribution of any of these substances is prohibited, and

administering one of these substances or drugs to another person for the purpose of inducing incapacitation is a violation of this policy.

Interim and Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to restore or preserve a party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or provide support during the University's grievance procedures or during the Alternative Resolution process.

Such measures may include, but are not limited to:

- mutual restrictions on contact between the parties
- changes in work or housing locations
- modifications of class or work schedules
- withdrawal from a course
- academic support
- safety escorts
- counseling
- leaves of absence

Party: A complainant or respondent.

Pregnancy or related conditions: Pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Relevant: Related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Hearing Chair in determining whether the alleged sex discrimination occurred.

Respondent: A person who is alleged to have violated the University's prohibition on sex discrimination.

Responsible Employee: Any employee of Clark University, including part-time employees and student workers, who has the authority to institute corrective measures on behalf of the University, or who has the responsibility for administrative leadership, teaching, or advising. These individuals are typically classified as responsible employees, and shall report to the Title IX Coordinator any information learned about an act of sex-based misconduct. For the sake of clarity, unless specifically designated as a confidential resource, all faculty members, all employees working with the division of student success, athletics, and the human

resources department, and any employees with a leadership title such as president, provost, dean, vice president, director (inclusive of those titled as assistants and associates of the same) are deemed responsible employees. There is an expectation that all employees, regardless of position/title, will report any suspected violation of this policy to the Title IX Coordinator, including but not limited to faculty, supervisory personnel, individual contributors, Resident Assistants, and Teaching Assistants. Failure of any of the above-referenced employees and employee categories to report a suspected violation of this policy may be subject to disciplinary action – potentially up to and including separation and/or expulsion.

Sexual Exploitation: Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute sexual assault, sexual misconduct, or sex-based harassment. Examples of sexual exploitation include, but are not limited to: making public sexual activity with another person without that other person’s consent; prostituting another person; video- or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); voyeurism; sharing or posting publicly or online sexually explicit images or videos of another person; and/or knowingly transmitting a sexually transmitted infection (STI) or HIV to another person.

Sexual Misconduct: Sexual misconduct is any intentional sexual touching of a person, however slight, with any object without effective consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another or any other bodily contact in a sexual manner. Any disrobing of, or exposure to, another person without effective consent is considered a violation of this policy.

The University will take steps to respond to reports of sexual offenses and will impose sanctions on anyone who has been found to have violated this policy following an investigation and adjudication process. Resolution by the University is intended to help bring an end to harassing or discriminatory conduct, prevent recurrence, and address the effects on the complainant and the community.

Free Speech and Academic Freedom

This policy is intended to protect members of the University community from sexual offenses, not to regulate speech or unduly impinge on speech and expression.

Although this policy is not intended to interfere with or impinge upon speech, expression or academic freedom, neither freedom of speech nor academic freedom are limitless and the University reserves the right to sanction speech or expressive conduct that violates this policy, other university policies related to speech and expression, or federal or state anti-discrimination and harassment laws.

When an allegation implicates academic freedom, the Title IX Coordinator will consult with the appropriate university official(s) to obtain a relevant perspective regarding those aspects of the allegation connected to the tenets of academic freedom prior to the initiation of any resolution method.

Clark University Non-Discrimination Policy

It is the policy of Clark University that each qualified individual, regardless of race, color, sex, gender, sexual orientation, pregnancy, religion, creed, national origin, age as defined by law, or veteran or disability status, shall have equal opportunity in the education, employment or services of Clark University.

Consolidation of Cases

In the event that the allegations also involve allegations of other policies or handbooks, the Title IX Coordinator will collaborate with the other department(s) that oversees the implicated policy or handbook to determine whether to consolidate those other allegations within one investigation and/or hearing. Cases that implicate other policies or handbooks with the same fact pattern will follow the procedures outlined in this policy.

IV. REPORTING

Resources and Services:

Individuals who have experienced sexual offenses are encouraged to consider emergency assistance for medical treatment and preservation of evidence. It is important to preserve all physical evidence following an act of sexual offense. Physical evidence may be necessary in the event criminal prosecution is pursued. If possible, an individual should not wash, eat, drink, shower, use the bathroom, or change clothes. If clothes are changed, all clothes that were worn at the time of the incident should not be cleaned and should be placed into a clean paper bag. Leave all sheets, towels, etc. that may bear evidence for the police to collect.

Medical Treatment:

Medical treatment is available on and off campus; however, individuals seeking to preserve evidence through forensic examination are encouraged to see a Sexual Assault Nurse Examiner at UMass Memorial Hospital Emergency Department (119 Belmont Street, Worcester, MA 01605).

Individuals can receive confidential physical health services, including physical exams and testing for sexually transmitted infections (STIs) and pregnancy through Clark University's Health Services. Call (508) 793-7467 to schedule an appointment.

For confidential 24-hour support, counseling, and advocacy services individuals may contact Pathways for Change at (800) 870-5905 (24-hr hotline) or the YWCA (508) 767-2505.

Reporting to Police:

Individuals who have experienced sexual offenses have the right to report, or not to report,

the incident to either University Police or to a municipal police department. Someone may choose to report to both the police and the University's Title IX office. An individual can request assistance from the Title IX Coordinator or another University Official in making a report to the police or for more information on how to obtain a court-issued protective order with police assistance. If a protective order has been issued, this information should be reported to the Title IX Coordinator and to University Police promptly.

In an emergency, dial 911, or if on campus, call University Police at (508) 793-7575.

Reports can be made to the Clark University Police at Garden Level of Bullock Hall; (508) 793-7575.

How to Make a Report to the University:

The University encourages individuals who have experienced sexual offenses to make a report so that the University may respond, and resources and support may be provided. There is no timeframe for making a report, but the University encourages reports as close in time to the alleged incident as possible.

Anyone may report sexual offenses to the Title IX Coordinator or to any Responsible Employee. Reports may also be made using the online reporting form (<https://www.clarku.edu/offices/title-ix/report-an-incident/>).

Title IX Coordinator, Brittany Brickman
Email: TitleIX@clarku.edu
Phone: (508) 793-7194
950 Main St. Worcester, MA 01610
ASEC 315

A report of sexual offense involving a student or employee (faculty or staff) will be shared with the Title IX Coordinator when the report is made to any Responsible Employee of the University. The report of a sexual offense should include the names of the complainant, respondent, and any witnesses, as well as any information known about what may have taken place including the date, time, and specific location of the alleged incident.

A report of sexual offense made to the Title IX Coordinator will not be shared with law enforcement without the complainant's consent unless the report contains information regarding a threat to the physical safety of one or more member of the University community. To the extent possible, information reported to a non-confidential campus resource will be shared only with individuals at the University who have a role in responding to a report of a sexual offense.

Anonymous Reporting

An anonymous report of a sexual offense may be made through the Clark Title IX webpage online report form. An anonymous report may limit the University's ability to investigate and

address sex-based discrimination, and it may prove difficult to take disciplinary action against any individual when based solely upon an anonymous report.

Disclosing Sexual Offenses to Confidential Campus Resources

Confidential Campus Resources assist the complainant in receiving necessary assistance and support, such as advocacy, and health or mental health services. The name(s) and other identifying information regarding a report of sexual offenses made to a Confidential Campus Resource will not be shared with the Title IX Coordinator or any other member of the University community, unless the report contains information that includes an immediate threat of harm to oneself or others.

It is important to note that the University cannot conduct an investigation or pursue disciplinary action in response to a report that is made only to a Confidential Campus Resource. Thus, a complainant who makes a report to a Confidential Campus Resource may also decide to file a complaint with the University or report the incident to law enforcement, so that the matter may be investigated.

While maintaining a complainant's confidentiality, Confidential Campus Resources report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report does not include information that would directly or indirectly identify the complainant. Such reporting helps keep the Title IX Coordinator informed of the general extent and nature of sex-based discrimination on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

Clark University's Confidential resources include:

Counseling/Psychological Services - Confidential and free individual therapy is available to students, including education regarding normal reactions to sexual assault and relationship abuse and how to cope with distress.

Center for Counseling & Personal Growth (508) 793-7678

Medical Services - Confidential physical health services are available, including physical exams and testing for sexually transmitted infections (STIs) and pregnancy.

Health Services (508) 793-7467

Ombudsperson - A confidential, informal, and neutral service available to employees. (508) 889-2675.

Confidential Faculty Members-

- Professor James Córdova jvc.confidential@clarku.edu

- Professor Andrew Stewart als.confidential@clarku.edu
- Professor Kathy Palm Reed kpr.confidential@clarku.edu

Clery Act and Other Legal Obligations

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. The Clery Act, signed in 1990, was originally known as the Crime Awareness and Campus Security Act.

In accordance with the Clery Act, the University tracks all non-identifying information regarding reports of sexual offenses made to the University, including reports shared with Confidential Campus Resources. At any time, if the University determines that there is a serious and immediate threat to the University community, the University Police Department, the Title IX Coordinator, and the Dean of Students may issue a timely warning to the community. Timely warnings do not include any information that identifies a complainant.

Consistent with the Commonwealth of Massachusetts Session Laws, 2020 Ch. 337, Clark University will provide an annual report to the Massachusetts Department of Education with aggregate, de-identified information including the total number of sexual offense reports reported to the Title IX Coordinator and data regarding disciplinary outcomes.

V. RESPONDING TO A REPORT

Initial Outreach

Upon receipt of a report of sex-based misconduct, the Title IX Coordinator or designee shall contact the complainant to provide information and an invitation to meet with the Title IX Coordinator or designee to discuss options for reporting and resolving the alleged misconduct, including: (a) information regarding available campus resources, assistance and support; (b) the right to make a report of the alleged misconduct to both the University and to law enforcement as well as the option to make no report at all; and (c) information regarding university resolution methods and procedures for addressing and resolving the alleged misconduct.

Initial Assessment of the Report and Preliminary Inquiry

Following receipt of a report of misconduct and/or a conversation with the complainant, the Title IX Coordinator or designee will conduct an initial assessment of the report to determine: (a) whether interim protective or supportive measures are needed; (b) whether there is an immediate threat to the health and safety of an individual or the University community and, if so, what steps may be taken to respond to any known threat; and, (c) the appropriate resolution method(s) based on the information known at that time regarding the alleged misconduct.

Prior to deciding the appropriate method for resolution, the Title IX Coordinator may conduct a preliminary inquiry to better understand the nature of the allegations and confirm the appropriate resolution method. This may include conversations with other university employees or students. These conversations are not interviews connected to or part of an investigation, rather these conversations are conducted simply to gather sufficient information needed for the Title IX Coordinator to determine the most appropriate method to use to resolve the report. The Title IX Coordinator will take steps as appropriate to maintain the privacy and in some instances the confidentiality of the complainant when conducting an initial inquiry.

Where the Title IX Coordinator determines that the alleged misconduct, even if proven, would not constitute a violation of this policy, the Title IX Coordinator may take steps to prevent potential future violations of this policy and respond to the report as follows:

- Refer the report to the appropriate university official for their review, response and handling in accordance with other applicable university policies and procedures;
- Work with Complainant and/or other university officials to address the alleged conduct through non-punitive means including educational conversations, facilitated conversations, training, and written communications.

Privacy and Confidentiality

The University will keep the identities of all parties confidential, and the sensitive records of the party participants private, to the extent possible. This means that the University will not disclose the identity of the parties, except as necessary to carry out an investigation, disciplinary process or method of resolution, for the health, safety and well-being of the parties and campus community, or as permitted under state or federal law. At times, the University may redact certain portions of documents to balance the competing interests of reasonably protecting privacy while simultaneously providing access to the documents for the necessary and appropriate handling of the case. The University cannot guarantee confidentiality or privacy, and it will not restrict the parties from discussing their personal experiences, so long as the parties avoid conduct that would constitute prohibited retaliation. Additionally, please be advised that there are certain key university administrators with a 'need to know' the identity of the parties and the facts of the case in order to implement safety plans, ensure the process is not unduly impeded, and other actions deemed necessary to safeguard the process and the University.

Emergency Removal of a Student

If at any time the University determines that the conduct, as alleged, poses a risk of imminent, physical harm to one or more members of the University community, the University may instruct that a student respondent be suspended, removed or reassigned, on an interim basis, from specific programs or activities. Any such assessment will be made on a case-by-case basis, and based on an individualized safety and risk analysis. The decision to

enact an interim suspension, removal, reassignment or leave will be provided to the respondent in writing with a rationale for the decision, and an explanation of the process for challenging the emergency removal decision.

Emergency Removal of an Employee

If at any time the University determines that the conduct, as alleged, poses a risk of imminent physical harm to one or more members of the University community or to the University's educational, research, scholarly, or work environment, the University may instruct that the employee be placed on administrative leave, or reassigned, pending the outcome of an investigation and hearing. Any such assessment will be made on a case-by-case basis, and based on an individualized safety and risk analysis. The decision to enact an interim suspension, reassignment, removal or leave will be provided to respondent in writing with a rationale for the decision, and an explanation of the process for challenging the emergency removal decision.

The decision to place any respondent on an interim suspension, reassignment, removal or leave shall not be considered as evidence that any determination has been made regarding potential responsibility for violating this policy.

Opportunity to Challenge Decision to Suspend or Remove or Other Supportive Measures

A respondent shall have an opportunity to challenge the decision by contacting the Vice President and Chief Officer of Diversity, Equity, and Inclusion within three (3) business days of the measure being communicated, who will schedule a meeting during which the respondent may present their challenge to the decision.

VI. METHODS OF RESOLUTION

There are three different methods that may be used to address a report of prohibited conduct: support-based resolution, alternative resolution, or an investigation. When appropriate, the Title IX Coordinator will incorporate the wishes of the complainant into the decision of which resolution method to use. The Title IX Coordinator shall have the discretion to initiate an investigation. The Title IX Coordinator must consider, at minimum, the following factors:

- The complainant's request to not proceed with initiation of complaint;
- The complainant's reasonable safety concerns regarding initiation of a complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the respondent is an employee of the recipient;

- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing, sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a decision maker in determining whether sex discrimination occurred; and
- Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating an investigation.

Should the Title IX Coordinator initiate an investigation, the complainant will be notified prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others.

A. Support-Based Resolutions

A Support-Based resolution may be used to provide support to a complainant who does not wish to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution is not required, based upon the available information. When the allegations include information suggesting that the physical health or safety of an individual or the school community is at risk, a Support-Based resolution may not be sufficient.

Examples of Support-Based Resolution may include adjustments to class or work schedules, adjusted deadlines for projects or assignments, or referrals to counseling or other support services, or preventative conversations with the respondent. A Support-Based Resolution does not preclude later use of another form of resolution, for example if new information becomes available and the Title IX Coordinator determines there is need for additional steps to be taken, or the complainant later decides to pursue an Alternative Resolution or Investigation. In all cases, the steps associated with the Support-Based Resolution shall be documented and retained by the Title IX Coordinator.

B. Alternative Resolution

At any time prior to a hearing, one or both parties may request an Alternative Resolution to resolve the complaint.

An Alternative Resolution is a voluntary process whereby both complainant and respondent arrive at mutually agreeable terms to address the alleged conduct. Because there is no investigation and determination, the University will not impose discipline on a respondent as part of the Alternative Resolution process. Both parties and the Title IX Coordinator must agree to the use of Alternative Resolution to resolve a complaint.

If an Alternative Resolution option is requested, the Title IX Coordinator will assess whether the complaint is suitable for Alternative Resolution and will then take steps to determine if the other party is also willing to engage in Alternative Resolution. Both parties must agree, in writing, to an Alternative Resolution.

When the complainant and respondent agree to the use of an Alternative Resolution, the Title IX Coordinator will provide the complainant and respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Alternative Resolution process including the circumstances under which use of the process precludes the parties from resuming an investigation arising from the same allegations;
- Any consequences resulting from participating in the Alternative Resolution process, including the records that will be maintained or could be shared;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the respondent is presumed not responsible for violating this policy as a result of participating in the Alternative Resolution process, unless respondent admits to violations of this policy;
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent/guardian, friend, or attorney;
- The date and time of the initial meeting with the Title IX Coordinator;
- Information regarding supportive measures, which are available equally to the respondent and to the complainant.

Both the complainant and respondent may propose steps or actions throughout the Alternative Resolution process until a final agreement is arrived at and agreed to by all parties and approved by the Title IX Coordinator. Both complainant and respondent may be accompanied by an advisor or support person during the course of the resolution process. At any time prior to the conclusion of an Alternative Resolution process, the complainant, respondent or Title IX Coordinator may decide that the reported conduct will instead be addressed by investigation.

Alternative Resolutions may include but are not limited to:

- work, academic, or program reassignment
- an agreement that the complainant and respondent will engage with one another only in limited and specific circumstances
- an agreement that the complainant and respondent will not contact one another
- completion of an educational project by the respondent
- completion of a community service project by the respondent
- conducting targeted prevention education and training
- an agreement to engage in a restorative justice process
- a written apology by the respondent
- sanction or discipline agreed upon by both the complainant and respondent
- any other method agreed upon by the complainant, respondent and the Title IX Coordinator that is designed to address the reported conduct.

If either party does not voluntarily agree in writing to pursue an Alternative Resolution, or if the complainant, respondent, or Title IX Coordinator, at any time, determines that Alternative Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the complainant and respondent in writing that the complaint will proceed through the Investigation and Hearing Process. Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and no further action shall be taken.

The Alternative Resolution process is generally expected to be completed within thirty (30) calendar days and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension. Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and no investigation or further action will be taken. Violations of the terms of an Alternative Resolution may lead to an investigation and, if substantiated, to discipline or sanction.

Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.

C. Investigation

The Title IX Coordinator is responsible for overseeing the investigation process and assigning a trained investigator to conduct a fair, neutral investigation. Throughout the investigation process, both the complainant and respondent will be treated with respect and without prejudice regarding the allegations and their involvement in the investigation process.

All individuals are expected to participate truthfully in any investigation process, whether as a complainant, respondent, or a witness. All employees who are respondents or witnesses in an investigation are required to participate. A determination that there is not enough evidence to support a finding shall not be sufficient to conclude that a party or witness made a knowingly false material statement.

The Title IX Coordinator and the investigator shall endeavor to complete the investigation process within 60 business days from the date of the initiation of the investigation (this timeframe excludes the time the parties take to review and comment on the investigative report). Should the investigation timeline need to be extended, the Title IX Coordinator will notify the complainant and respondent in writing of the extension including the reason for the extension and the new timeline for completion of the investigation.

The Title IX Coordinator may exercise appropriate action to ensure the integrity of the investigation and the opportunity for the complainant, respondent and witnesses to participate in the investigation in a manner free of harassment, intimidation, bullying, and retaliation from parties, advisors, support persons and any other individual whose actions disrupt or interfere with the University's investigation process.

Concurrent Investigations with Law Enforcement

There may be times when the University investigates a complaint of sexual offenses at the same time that a law enforcement agency is investigating the same matter. The University will comply with law enforcement requests for cooperation. At times, that cooperation may require the University to temporarily suspend its fact-finding investigation while law enforcement gathers evidence. The University will promptly resume its fact-finding investigation as soon as it is notified that doing so would not impede any law enforcement activities, or as soon as the University determines it can reasonably proceed.

Communicating the Start of the Investigation

Prior to the start of any investigation, the complainant and the respondent will both be provided with written notification of the decision to initiate an investigation. Such notification will include:

- The name of the complainant(s)
- The name of the respondent(s)
- The allegations under investigation including, if known, the date and location of the alleged conduct, if known
- The applicable policy including sections of the policy
- A description of the investigation process including: the identity of the investigator, the right of complainant and respondent to meet with the investigator; have an advisor or support person of their choice, present throughout the investigation process including all meetings with the investigator; provide information and evidence pertaining to the allegations; suggest witnesses to be included in the investigation; suggest questions to be posed of witnesses and the other party; review and respond to all of the evidence gathered that is directly related to the allegations; receive a right to a copy of the investigation report redacted to protect privacy
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the respondent is presumed not responsible, unless and until, at the conclusion of the resolution process, there is a determination of responsibility
- Information regarding the prohibition against retaliation

Should additional allegations be brought forward, a revised Notice of Investigation shall be provided to both parties, in writing.

Conflict of Interest or Bias

After a Notice of Investigation is issued to complainant and respondent, each party may object to the participation of the designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) calendar days from the date of the Notice of Investigation to submit a written objection to the selection of the

investigator. If the objection is substantiated, that individual shall be replaced.

Gathering Information

The Title IX Coordinator will assign a trained investigator (who may be an external investigator), who will gather information, including interviews of the complainant, respondent and any witnesses, and any documents, materials or information considered to be directly related to the allegations. It may be necessary to interview the complainant, respondent or witnesses more than once during the course of the investigation as new information is learned and gathered.

Interviews may be conducted in person or via video conference. The investigator shall make the interview notes, or a detailed summation of same, available to the person interviewed for review. The interviewee will have three (3) calendar days to correct or comment on any statements in the interview notes. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has corrections or comments to the notes, the interviewee may submit a written response within three (3) calendar days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received by the deadline, their interview notes will be presumed to be accurate.

Information or evidence that is not provided to the investigator during the investigation process will not be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably known to exist, nor available, at the time of the investigation.

Sexual History

As a general rule, the investigator will not consider the sexual history of a complainant or respondent. Sexual history evidence of a complainant or respondent that pertains to the party's reputation or character will never be considered relevant on its own. Additionally, the investigator will never assume that a past sexual relationship between the parties means that complainant consented to the specific conduct under investigation. However, in limited circumstances, sexual history may be considered by the investigator to be directly relevant to the investigation. A complainant's sexual history might be considered relevant to determine how the parties communicated consent in past consensual encounters in order to understand whether the respondent reasonably believed consent was given during the encounter under investigation; and evidence of specific past sexual encounters may be relevant to whether someone other than the respondent was the source of relevant physical evidence. A respondent's sexual history might be considered by the investigator in determining pattern, knowledge, intent, motive, or absence of mistake, or to resolve another issue of importance in the investigation.

Medical and Counseling Records

Medical and counseling records are privileged and private documents that parties will not be required to disclose in this process. Medical and counseling documents are privileged, which

means that they cannot be shared with anyone other than the treating professional unless the patient agrees to disclosure, in writing. Note that this privilege may potentially be waived if the patient voluntarily discloses the records on their own volition. Prior to producing medical records, parties are encouraged to ask the investigator or the Title IX Coordinator about the possible consequences of releasing this information.

Non-University Investigations

In the event a party or their advisor or another third-party to an investigation conducts a separate inquiry into the allegations under investigation by the University, the party, advisor or third-party will make such inquiry known to the Title IX Coordinator. The Title IX Coordinator may notify participants in the University investigation of the additional inquiry so that steps can be taken to prevent disruption to the University investigation process, and ensure participation in the University investigation is free of harassment, intimidation, bullying, retaliation or interference. Any party, witness, or third-party conducting such an investigation is required to inform anyone interviewed that their inquiry is not an official University inquiry, and must identify the individual for whom the investigation is being conducted.

Investigation Report

Once the information gathered has been shared with the complainant and respondent, the investigator will write a report summarizing all of the relevant evidence gathered and all steps taken during the investigation process including the allegations under investigation, a list of individuals interviewed, a list of all relevant information gathered, and a summary of the relevant information from each interview. Following the conclusion of the investigation, the investigator shall provide the investigation report to the Title IX Coordinator who will determine the sufficiency of the investigation report.

The complainant and respondent will be provided ten (10) calendar days to respond to the evidence if they choose to do so by providing written comments or additional evidence, names of witnesses, or requests that additional questions be posed to the other party or witnesses to the investigator. This timeframe may potentially be extended for good cause shown. Neither the complainant nor the respondent (nor their advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or forward, post or otherwise make available the information to any individual, group, organization or agency. Any student or employee who fails to abide by this policy may be subject to discipline. Any advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

After receiving any responses from the complainant or respondent, the investigator may gather additional relevant information or ask additional relevant questions of the complainant, respondent, and witnesses as needed.

If new relevant evidence is provided by either party, or gathered by the investigator, the

newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party shall have ten (10) calendar days in which to respond to the new evidence. Each may provide a response in writing to the investigator. The investigator may also determine that additional interviews are warranted to assess the credibility, relevance or value of the new evidence. This will be the final opportunity to provide evidence, or names of witnesses, to the Investigator.

Outcome of Investigation and Notice of Hearing

Following conclusion of the investigation, the Title IX Coordinator will send written notification to the complainant and respondent, and, if requested, to their respective advisor, the conclusion of the investigation process, access to all of the relevant evidence, and a notice of hearing along with a copy of the investigation report.

The Notice of Hearing will include:

- The date of the hearing (scheduled no less than ten [10] business days from the date of the Notice of Hearing)
- Identity of the Hearing Chair
- Opportunity to provide to the Title IX Coordinator written objection to the Hearing Chair on the basis of a demonstrated bias or actual conflict of interest within three (3) calendar days of receipt of the Notice of Hearing
- Opportunity to provide a written petition for a three (3) person Hearing Board within three (3) calendar days of receipt of the Notice of Hearing
- Notice that each party has five (5) business days in advance of the hearing to submit to the Hearing Chair the names of witnesses they would like to have present at the hearing
- Notice that each party has three (3) business days prior to the hearing to submit to the Hearing Chair a list of questions they wish to pose to the other party or a witness
- Names of witnesses
- Notice of opportunity to resolve the complaint via Alternative Resolution prior to the commencement of the Hearing

Hearing Procedures

The purpose of the Hearing is to ascertain whether there is sufficient evidence to determine, by a preponderance of the evidence, that the conduct alleged occurred, and, if so, whether such conduct violates the policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearing Chairs must immediately inform the Title IX Coordinator if they have a bias or conflict of interest.

The Hearing will be conducted by a neutral, trained, Hearing Chair chosen by the Title IX Coordinator, who may be external. Parties have three (3) calendar days to provide a written petition to the Title IX Coordinator to request a three-person panel. If a three- (3) person panel is granted, one member of the Hearing Board must be from an area of the University most closely aligned with the status of the respondent. In instances where the respondent is a student, one Board member must be from the division of student success; where the respondent is a staff member, one Board member must be from the office of human resources or assigned by the Executive Vice President; and where the respondent is a faculty member, one Board member must be from the office of the provost or assigned by the Provost. The FRC will be consulted on a faculty member should there be implications of other policies and handbooks.

The Hearing Chair will make evidentiary rulings and enforce the rules of decorum. The Hearing Chair shall have the authority to limit the time allotted to any phase of the Hearing, and/or to limit the time allotted to the full Hearing. Any such limitation shall be communicated to the parties no later than three (3) business days before the hearing. Note, however, that it is expected that Hearings will not exceed one (1) business day in length. The Hearing Chair, in consultation with the Hearing Panel, if used, and Title IX Coordinator, has the discretion to determine whether to allow a Hearing to exceed this length.

The University does not compel any individual to participate in a Hearing. However, the Hearing Chair shall have the discretion whether or not to take into consideration the statements made during the investigation by any individual who does not participate in the Hearing and submit to questioning and, should the Hearing Chair consider such statements, the Hearing Chair shall further have the discretion to determine the reliability of such statements, as well as what weight, if any, to give them. Additionally, the Title IX Coordinator may choose to continue with the hearing in the absence of the complainant, respondent or any witness.

Hearings may be conducted in person or via videoconferencing. If the Title IX Coordinator determines that a hearing by videoconference is appropriate then, prior to the hearing, the Hearing Chair shall have received instruction regarding the operation of any audio-visual equipment that will be used for the hearing. The Hearing Chair shall also provide the participants instructions regarding how to participate in the hearing and any rules or guidelines for hearing participation.

Each Hearing shall be recorded by the Hearing Chair and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the Hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the Appeals Process to complainant, respondent, their respective advisors, Hearing Chair and Appeal Officer by contacting the Title IX Coordinator.

The complainant, respondent, and the Hearing Chair all have the right to submit witnesses to be present. Witnesses must have information relevant to the allegations. No party will be

permitted to request a witness who was not interviewed by the investigator as part of the University's investigation. Each party shall submit to the Hearing Chair the names of witnesses they would like to call no fewer than five (5) business days in advance of the hearing.

Each party shall submit a list of questions to the Hearing Chair to ask of the other party or witness(es) three (3) business days prior to the hearing. If the Hearing Chair determines that any questions are not relevant to the allegations, the Hearing Chair shall explain the reason for the exclusion of the question at the hearing.

The Hearing Chair is the only party permitted to ask questions of parties and witness(es). Any questions that a party would like to be asked as a follow up during a hearing shall be submitted to the Hearing Chair by methods determined in advance and communicated at the pre-hearing meeting, no fewer than three (3) business days in advance of the hearing.

New Information at the Hearing

Information not provided to the investigator during the investigation and evidence review process will not be allowed during the Hearing itself, nor considered in determining whether the policy was violated unless it can be clearly demonstrated that such information was not reasonably known to, nor available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the Hearing Chair shall have the authority to either exclude the evidence, or to send the matter back to the investigator for further, limited investigation.

Conflict of Interest or Bias

Complainant and respondent may object to the participation of a member of the Hearing Board or Hearing Chair on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) calendar days from the date of the Notice of Hearing to object in writing to the selection of a Hearing Board member or Hearing Chair. If the objection is substantiated, that individual shall be replaced.

Hearing Participation Guidelines

The Hearing Chair shall have the authority to maintain order and decorum at the hearing. The Hearing Chair will rephrase any questions that are determined to be abusive, intimidating, or disrespectful if determined to still be relevant. Any party, witness, or advisor who is disruptive may, at the discretion of the Hearing Chair, be removed from the hearing.

Any person disruptive to a hearing or who fails to follow these guidelines during the hearing, may be excluded from the process by the Title IX Coordinator or designee, and/or by a member of the Hearing Board. If this person is a student or employee, they may be subject to disciplinary sanctions appropriate to the disruption.

The following will apply during a hearing (note that modifications to accommodate videoconference hearings may be necessary):

- Hearings will be convened in a private room and will not be open to the public. A record of the hearing (digital audio and/or written) will be maintained by the University. No other recordings shall be made at the hearing.
- At the request of either party, the Hearing will proceed with the parties located in separate rooms with technology enabling the Hearing Chair and parties to simultaneously see and hear the party or the witness answering questions.
- All parties have a right to a fair and impartial hearing. However, a party's failure to attend a scheduled Hearing after receiving appropriate, timely notice, or a party's failure to participate appropriately in the proceeding, are not sufficient reasons to halt the Hearing Chair from rendering a decision.
- The Hearing Chair will determine the order of proceedings, noting that all parties will be provided an opportunity to ask (through the Hearing Chair) and respond to questions.
- The respondent is presumed not responsible for the alleged sex-based discrimination unless and until the Hearing Chair determines after the hearing that respondent is responsible by a preponderance of the evidence.
- In a Hearing involving more than one respondent or more than one complainant, the Title IX Coordinator, or designee, at their discretion, may permit the hearings concerning each respondent or complainant to be conducted either separately or jointly.
- Neither the respondent nor complainant may question one another directly. Each party may ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility through the Hearing Chair.

After the conclusion of the Hearing, the Hearing Chair will adjourn the hearing. The Hearing Chair will decide if the respondent is responsible or not responsible for each alleged policy violation. Decisions are made based on a "preponderance of evidence," meaning the incident was more likely than not to have happened. Only if the respondent is in violation of a policy would the process include sanctioning.

Following the hearing, the Hearing Chair will then prepare a written report. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness.

The Hearing Chair's report will include:

- The allegations;
- Description of all procedural steps taken to date;
- Findings of fact;
- Conclusion of application of facts to the policy; and
- Rationale for each allegation.

If the Hearing Chair determines that there is no finding of responsibility, the Hearing Chair's report shall be provided to the Title IX Coordinator, who shall communicate the findings,

along with a copy of the Hearing Chair's report, to the parties, together with procedures for appeal.

If the respondent is found responsible for violating university policy, the Title IX Coordinator will forward the Hearing Chair's report to the Director of Student Conduct, the CHRO/Director of Human Resources, and/or the Dean of the College or their respective designees, who will decide upon which sanction(s) shall be applied. The Title IX Coordinator shall be notified of the determination of sanction.

The Hearing Chair's report, together with the determination of the appropriate sanctions, shall be provided to the Title IX Coordinator, who shall communicate the findings and the sanction, along with a copy of the Hearing Chair's report, to the parties within five (5) business days, together with procedures for appeal. The complainant shall also be provided with information on remedies, as determined by the Title IX Coordinator.

Determining Sanctions

The Director of Student Conduct, or designee, the CHRO/Director of Human Resources, or designee, or the Dean of the College, or designee, will consider the following as non-exhaustive list of aggravating factors in determining sanction(s):

- Frequency of the misconduct
- Severity of the misconduct
- Previous conduct history of the respondent
- Non-adherence to interim measures (i.e., no contact agreements, etc.)
- Use of drugs or alcohol to facilitate the violation
- Use of force or weapon in committing the violation
- Multiple actors committed the violation
- Ongoing threat to the complainant or University community

When determining an appropriate sanction, consideration will be given to the complainant's ability to freely access the benefits of their education or employment and participate in the University community.

The appropriate university official will consult with the Title IX Coordinator about the sanction decision prior to finalization and implementation of the sanction.

D. Appeal

Both complainant and respondent have the right to appeal the outcome. If a party appeals, the Title IX Coordinator will appoint a trained Appeals Officer. Appeals must be made in writing to the Appeals Officer within seven (7) business days following notification of the outcome from the Conduct Officer.

An appeal may be filed for one or more of the following reasons:

- A procedural error occurred that materially affected the outcome of the

investigation;

- New evidence becomes available that was not reasonably available during the investigation that would materially affect the outcome of the investigation;
- An actual conflict of interest or demonstrated bias on the part of the Title IX Coordinator, Hearing Chair, Conduct Officer, or Investigator.

The Title IX Coordinator is also empowered to file an appeal on behalf of the University if the determination of the Hearing Chair goes against the greater weight of evidence or appears arbitrary in nature.

Notification of Receipt of Appeal

The Appeal Officer will acknowledge receipt of the appeal and make the non-appealing party aware an appeal has been filed. The Appeal Officer will also provide the non-appealing party three (3) business days to provide a written response to the appeal to the Appeal Officer. A response to the appeal is not required and a lack of response to the appeal does not indicate agreement with the appeal.

Review and Determination of the Appeal

The Appeal Officer will review the written appeal and any response to the appeal, along with any documents pertaining to the investigation and any additional supporting documents pertaining to the appeal.

The Appeal Officer will issue a written determination regarding the appeal to complainant, respondent, and the Title IX Coordinator generally within five (5) business days following the deadline to submit appeal materials. The determination of the Appeal Officer may:

- Affirm the findings/outcome of the investigation and decision of the Conduct Officer
- Return the matter to the Investigator, Hearing Chair, Conduct Officer or Title IX Coordinator to review and consider any new evidence not previously available during the investigation
- Return the matter to the Investigator, Hearing Chair, Conduct Officer or Title IX Coordinator to correct any procedural error that may have materially affected the outcome of the investigation and determination by the Investigator

The determination of the Appeal Officer is final.

E. Discipline and Sanction

Following a determination of a violation of this policy, the Title IX Coordinator will forward the notice of outcome of the investigation, and a copy of the investigation report to the appropriate university official for determination and implementation of sanctions designed to prevent the recurrence of the conduct. The appropriate university official is determined by the status of the respondent as follows:

If the respondent is a student

Conduct Officer: Director of Student Conduct or designee

Appeals Officer: Dean of Students

If the respondent is a staff member

Conduct Officer: Director of Human Resources or designee

Appeals Officer: Chief Human Resources Officer or designee

If the respondent is a faculty member

Conduct Officer: Dean of the College or designee

Appeals Officer: Provost

When determining an appropriate sanction, consideration will be given to the complainant's ability to freely access the benefits of their education or employment and participate in the University community.

A range of sanctions, from warning, revocation of admission and/or degree, withholding of degree, permanent implementation of changes to work assignments or class schedules, suspension, expulsion, termination, or referral to an employee disciplinary process may be imposed upon any student or employee found to be responsible for sex-based discrimination.

The following will be considered as aggravating factors when determining discipline or sanction (this is a non-exhaustive list):

- Frequency of the misconduct
- Severity of the misconduct
- Previous conduct history of the respondent
- Non-adherence to interim measures (e.g., no contact directives)
- Use of drugs or alcohol to facilitate the violation
- Use of force or a weapon in committing the violation
- Multiple actors committing the violation
- Ongoing threat to the complainant or University community

The appropriate university official will consult with the Title IX Coordinator about the sanction decision prior to finalization and implementation of the sanction.

F. Remedy

Remedies may be provided to the complainant upon a finding that the respondent is responsible for sex-based discrimination. Remedies shall be determined by the Title IX Coordinator. Remedies are designed to restore or preserve equal access to the University's educational programs or activities. The range of remedies include:

- Education to the individual and/or the campus community

- Permanent alteration of living arrangements
- Permanent alteration of work schedules or assignments for employees
- Permanent alteration of course schedules
- Long-term contact limitations between the parties
- Adjustments to academic deadlines
- Policy modifications or modifications of training

G. Final Written Decision

The University will issue a Final Written Decision including its determination of responsibility, any sanctions or corrective action taken, and will provide to the complainant any remedies designed to restore or preserve equal access to the University's education program or activity.