



Title IX and Sexual Misconduct Policy

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I. Purpose

DeVry University's (University) community, guests and visitors have the right to be free from all forms of sex and gender-based misconduct, discrimination and retaliation, examples of which can include acts of sexual harassment, sexual assault, dating violence, domestic violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe on the rights of others.

As a recipient of Federal financial assistance, the University is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex and gender. Sex includes sex stereotypes, gender identity and expression, sexual orientation, and pregnancy or parenting status. The University's policies and procedures were created to comply with federal and state laws, and to ensure a fair, prompt, and impartial process for all parties involved in a sexual misconduct allegation. Any acts that meet this policy's definitions of Sexual Misconduct or Title IX Sexual Harassment are a violation of the University's policy, and potentially applicable state and federal law.

II. Scope¹

This policy applies to all members of the University's community, including administrators, faculty, staff, students, applicants, visitors, volunteers, vendors, contractors, guests, and persons attempting to participate in the University's programs and activities. This policy prohibits sexual harassment meeting specific definitions according to the Title IX regulations, as well as other Sexual Misconduct, not falling under specific Title IX regulatory definitions.

This Policy applies to Title IX Sexual Harassment that occurs in the United States, within the University's education programs and activities and is committed by a member of the University community. Reports or complaints of Title IX Sexual Harassment will be governed by the University's Title IX Sexual Harassment procedures. This policy also applies to Sexual Misconduct occurring on-campus or off-campus when the off-campus conduct:

- occurs during a University sponsored employment or education activity or program;
- adversely impacts the education or employment of a member of the University community; or
- otherwise threatens the health and/or safety of a member of the University community.

Reports of Sexual Misconduct will be governed by the University's Sexual Misconduct procedures. The University will assess reported conduct in each instance to determine applicability under this policy and to determine the appropriate procedure.

When the person alleged to have committed a violation of this policy is a member of the University's community, a grievance process may be available, regardless if the Complainant is or is not a member

¹ Non-Title IX sexual misconduct between colleagues and individuals other than students will utilize the resolution process outlined in the colleague Anti-Harassment and Non-Discrimination Policy.

of the community, but Complainants must be attempting to access the University's programs and activities to make a formal complaint of Title IX Sexual Harassment, as further described below.

The University's ability to implement grievance procedures against individuals who are not members of the University community may be limited. Where a complaint or report alleges conduct that allegedly or potentially includes acts of both Title IX Sexual Harassment and Sexual Misconduct, and where the allegations involve the same parties or are otherwise materially related, the allegations will be consolidated and addressed using the Title IX Sexual Harassment Procedures.

III. Terminology

The following definitions clarify terminology used throughout this policy.

1. **Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. When the University has actual knowledge, it must respond promptly by offering the Complainant supportive measures. University officials that have the authority to institute corrective measures include the Title IX Coordinator, Deans, Directors, Vice Presidents, and the President of the University.
2. **Appeals Officer** refers to an individual responsible for reviewing appeals after a written determination has been issued to the parties at the conclusion of a hearing.
3. **Clery Act** refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f); 34 C.F.R. Part 668.46. The Clery Act requires that institutions annually disclose certain crimes which have occurred within a geography that includes campus buildings and adjacent locations. Annual disclosures are released on or by October 1st each year.
4. **Complaint Administrator** is an individual, typically a University colleague, responsible for conducting an investigation into student complaints. The Title IX Coordinator, or a designated appointee, is responsible for investigating Title IX Sexual Harassment and Sexual Misconduct allegations. To locate the complaint administrator for a specific location, please visit the [Student Handbook](#).
5. **Complainant** is the individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment.
6. **Conduct Administrator** is an individual, typically a University colleague, authorized to administer disciplinary proceedings for alleged violations of the Student Code of Conduct and this Policy. A conduct administrator may serve as the sole member or as a participant in a Hearing Panel. Nothing shall prevent the University from authorizing a conduct administrator to impose sanctions in all cases at a single or multiple locations. To locate the conduct administrator for a specific location, please visit the [Student Handbook](#).

8. **FERPA** means the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99. FERPA sets certain limits on the disclosure of student records. This policy is designed to work in tandem with FERPA, and nothing in this policy is intended to require or encourage non-compliance with FERPA.
9. **Formal Complaint** is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail and must contain the Complainant's physical or electronic signature, or otherwise indicate the Complainant is the individual filing the formal complaint. The Complainant must be participating, or attempting to participate in, the University's programs or activities.
10. **Hearing Panel** refers to a person or persons who have decision-making and sanctioning authority within the University's policies.
11. **Hearing Officer** is an individual overseeing a hearing and is typically a member of a Hearing Panel.
12. **Report** refers to any information received by a University colleague, regardless if it is direct, indirect, partial or complete, that indicates possible Sexual Misconduct and/or Title IX Sexual Harassment occurred. When a report is received, University colleagues are required to inform the Title IX Coordinator or their supervisor who in turn must make a report to the Title IX Coordinator.
13. **Respondent** is the individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment.
14. **Speak Up** refers to the Speak Up Program, a reporting system managed by a third party vendor (NAVEX), which encourages members of the University community to come forward with questions or concerns, including allegations of sex and/or gender-based misconduct. Reports can be made anonymously or reporters can provide their contact information.
15. **Student Code of Conduct** refers to the policy titled "Code of Conduct" which is accessible in the [Student Handbook](#). It outlines students' rights and responsibilities, as well as the process by which action may be taken against a student for Code of Conduct violations.
16. **Title IX** is a federal law that prohibits sex and gender discrimination in U.S. education. Under Title IX, sex and gender-based misconduct are forms of discrimination that require investigation and appropriate remediation when students, colleagues, or other members of the educational institution's community are impacted. Title IX is enforced by the U.S. Department of Education. In the event Title IX conflicts with State or local law, Title IX pre-empts that law.
17. **VAWA** refers to the Violence Against Women Act. VAWA supports community resources for victims of sexual assault, stalking, dating violence and domestic violence and articulates

expectations regarding the management of related concerns when a report is made to representatives of U.S. colleges and universities.

IV. Prohibited Conduct

The University prohibits Sexual Misconduct and Title IX Sexual Harassment. Acts that are deemed to fall within the scope of this policy are violations of the Code of Conduct, as well as the expectations of members of the University community and may also be crimes. An attempt to commit an act identified in this policy, as well as assisting or knowingly encouraging any such an act, is also considered a violation of this policy.

1. Title IX Sexual Harassment

Title IX Sexual Harassment is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

- a. **Quid Pro Quo Sexual Harassment** is a colleague of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
- b. **Hostile Environment Sexual Harassment** is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the University's education program or activity.
- c. **Sexual Assault** includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.²
 - 1) **Rape** is 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.
 - 2) **Sodomy** is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - 3) **Sexual Assault with an Object** is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the Complainant is incapable of giving

² The University's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the University to adopt a definition of "Sexual Assault" that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

consent because of age or because of temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.

- 4) **Fondling** is the touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - 5) **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by state law.
 - 6) **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent in the state in which the incident occurs.
- d. **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
- e. **Domestic Violence** is violence committed by:
- 1) A current or former spouse or intimate partner of the Complainant;
 - 2) By a person with whom the Complainant shares a child in common;
 - 3) By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - 4) By a person similarly situated to a spouse of the Complainant under state domestic or family violence laws; or
 - 5) By any other person against an adult or youth Complainant who is protected from that person’s acts under state domestic or family violence laws.
- f. **Stalking** is 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 purpose of this definition:
- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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.

2. **Sexual Misconduct**

Title IX defines specific behaviors that constitute sexual harassment and the steps institutions must take to resolve allegations. Not all allegations will rise to Title IX Sexual Harassment and the University ensures other forms of Sexual Misconduct are addressed. Conduct that is sexual in nature but does not meet the scope of Title IX Sexual Harassment is considered Sexual Misconduct. Sexual Misconduct includes Non-Title IX Sexual Harassment, Sex Discrimination, and Other Misconduct. Complaints involving allegations of Sexual Misconduct are prohibited by this Policy and are resolved using the Sexual Misconduct grievance process.

a. **Non-Title IX Sexual Harassment**

Non-Title IX sexual harassment is unwelcome communication or conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, written or physical conduct of a sexual nature, without regard to whether the parties are of the same or different genders or gender identities. It includes:

- 1) Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking as defined above, that occurs outside of the University's education programs or activities or outside the United States;
 - i. Quid Pro Quo Sexual Harassment also includes a student, in addition to a colleague of the University, conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
 - ii. All stalking allegations, regardless if the stalking is based on sex, will be addressed under this Policy.
 - 2) Unwelcome conduct that does not rise to the level of Hostile Environment Sexual Harassment, as defined in this Policy, but that:
 - is sufficiently serious (severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or
 - has the purpose or effect of unreasonably interfering with an individual's work or academic performance.
- b. **Sex Discrimination** means material, adverse treatment of a person or group on the basis of sex. Discrimination occurs when persons are excluded from participation in, or denied the benefits of, any University program or activity on the basis of a protected status.
- c. **Pregnancy Discrimination** is a type of Sex Discrimination and means treating a woman unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

d. **Other Sexual Misconduct**

- 1) **Gender-Based Misconduct** refers to the unwelcome conduct, including harassment, of an unacceptable nature based on actual or perceived biological sex including behaviors based on gender identity, expression and non-conformity with gender stereotypes.
- 2) **Sexual Exploitation** occurs when one person takes a 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 the behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples include, but are not limited to: invasion of sexual privacy; prostituting another person; non-consensual recording of nudity or sexual activity; voyeurism; and intentionally or recklessly exposing one's genitals in non-consensual circumstances.

V. **Consent**

Consent is clear, knowing, and voluntary words or actions that give permission for specific sexual activity. While consent can be given by word or action, non-verbal consent is not as clear as talking about what someone wants or doesn't want sexually. Under this Policy, the University will apply the following when assessing whether consent has been, or was, given.

- Consent can never be assumed.
- Consent cannot be implied either from the lack of explicit consent or the lack of opposition to the sexual activity.
- Where there is use of threat, force, or restraint by the responding party, the lack of verbal or physical resistance or the submission by the victim does not constitute consent.
- The manner of dress by the reporting party does not constitute consent.
- Past consent to sexual contact and/or a shared sexual history does not automatically imply consent to other sexual activity.
- Consent to a sexual activity with one person does not constitute consent to sexual activity with another person.
- A person who initially consents to sexual contact may withdraw continued consent at any time during the course of the interaction. When consent is withdrawn or could no longer be given because of temporary or permanent mental or physical incapacity, engagement in sexual activity must stop.
- Consent to some form of sexual activity cannot automatically be taken as consent to any other form of sexual activity.
- Consent is required regardless of whether the person initiating the sexual activity is under the influence of alcohol, drugs, and/or medication.

During an investigation into alleged conduct violating this policy, a consent analysis may occur to determine if consent was present during the incident. Consent can only exist free from intimidation, force, incapacitation, and threat of force or coercion. Force is the use of physical violence to gain access to a sexual act. Force includes threats, intimidation (implied threats), and coercion used to create consent against an individual's will. Coercion is unreasonable pressure for a sexual activity.

Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

It is a policy violation for a person to engage in sexual activity with a person who is incapacitated or otherwise unable to give consent. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstance, including without limitation the following: the person is incapacitated due to the use or influence of alcohol, drugs, or medication; the person is asleep or unconscious; the person is under age; or the person is incapacitated due to a mental or physical health condition.

Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol or other drugs, inebriation, or intoxication alone are insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to understand the nature of circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness. Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person. One's own intoxication is not an excuse for failure to recognize another person's incapacitation.

VI. Complainant and Respondent's Rights

When the University receives notice of an alleged incident, the Complainant and Respondent will receive written notification of their rights and options. Both parties have the right to:

- Receive information on the University's grievance process, and the contact information for the Title IX Coordinator, campus security, and local law enforcement;
- A fair, prompt, and impartial resolution process when a formal complaint is filed;
- Participate or decline to participate in the University's investigation, including the right to withdraw from the process at any time. The University may still proceed with an investigation and grievance process with available information;
- Be informed of the outcome of any student or colleague conduct process involving alleged sex or gender-based misconduct regardless of participation in the process leading to that outcome. Both parties have the right to appeal the outcome on specific bases;
- Not be required to describe the incident to more representatives than absolutely necessary for proper investigation and response;

- Make an opening statement and impact statement during the grievance process where the decision maker is prepared to deliberate on appropriate sanctions;
- Seek and receive appropriate supportive measures. Supportive measures include, but are not limited to academic accommodations, increased security, University and local health and mental health services, counseling and advocacy services, student financial aid counseling, and visa and immigration assistance;
- Request a University no contact order and receive information on obtaining a State issued order of protection or no contact order;
- Be accompanied by an advisor at all University meetings and proceedings relevant to the grievance process;
- Confidentiality under the Family Education Rights and Privacy Act (FERPA). The University will make all reasonable efforts to ensure preservation of privacy, limiting disclosure of information to only those with a legitimate need to know;
- Be free from retaliation for making a report or complaint of sexual misconduct, or for assisting or participating in an investigation, proceeding or hearing relating to sexual misconduct. Complaints of retaliation should be forwarded to the Title IX Coordinator.

VII. Filing a Report

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Complainants who wish to speak to an individual who can keep the matter confidential should review the confidential reporting options below. Anyone may make a report pertaining to violations of this policy, and nothing in this policy prohibits a student or colleague from reporting a crime directly to law enforcement.

1. Title IX Coordinator

The University's Title IX Coordinator, or designee, oversees compliance of this policy. The Title IX Coordinator's responsibilities include the report intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent conduct prohibited under this policy. The Title IX Coordinator will carry out responsibilities free from bias and conflicts of interest. Concerns of bias, conflicts of interest, or misconduct by the Title IX Coordinator can be reported to the Senior Director of Regulatory Affairs.

Paul Herbst
Title IX Coordinator
1200 E. Diehl Road
Naperville, IL 60563
TitleIX@devry.edu
(630) 960-8019

Barbara Bickett
Senior Director, Regulatory Affairs
TitleIX@devry.edu
(630) 515-5852

2. Anonymously

Reports can also be made with the option to remain anonymous through Speak Up. Anyone can utilize Speak Up by calling (844) 703-9374 or online at www.devry.ethicspoint.com. Initial response to electronic reports will occur within 12 hours of initial receipt. Direct assistance, though limited, remains available when reports are made anonymously through Speak Up.

3. **Campus Administration and Staff**

All University colleagues who are not otherwise identified in this policy or through an institutional addenda as confidential resources are required to immediately provide all information received about any actual or suspected Sexual Misconduct and/or Title IX Sexual Harassment impacting any member of the University Community to the Title IX Coordinator.

4. **Department of Education**

Individuals may also submit external inquiries to the U.S. Department of Education:

U.S. Department of Education
Office of Civil Rights (OCR)
Lyndon Baines Johnson Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: (800) 421-3481
TDD: (800) 877-8339
Email: OCR@ed.gov
Web Page: <https://www.ed.gov/ocr>
[Office of Civil Rights Local Offices](#)

VIII. **Supportive Measures**

Upon receiving notice of an alleged violation of this policy, the Title IX Coordinator will offer reasonable and appropriate supportive measures to restore or preserve the equal access to the University's programs, without unreasonably burdening the other party, including measures to protect the safety of the parties and the University's community. Supportive measures will be offered to the Complainant regardless if an investigation and grievance process is initiated.

Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate to the Complainant and Respondent, without fee or charge, regardless if a formal complaint is filed. In most cases, supportive measures cannot be provided with anonymous reports. Complainants will receive written notification to the availability of supportive measures, as well as community resources. Supportive measures may include:

- Academic accommodations
- Changes in living or work arrangements
- Campus escorts or increased security
- No contact orders

- Student financial aid counseling
- Visa and immigration assistance
- Supported access to local medical, mental health, counseling, legal or law enforcement resources.
- Any other supportive measure to achieve the goals of this policy.

No one is required to take advantage of these services and resources, but the University provides them in the hope of offering help and supporting minimal disruption to access to academic programming or the workplace. If circumstances related to an incident change over time, these and other supportive measures may be revisited. Information about local and national resources can be found under the **Support and Resources** section of this policy.

IX. Emergency Removal

A student Respondent may be removed from the University's programs and activities after a safety assessment is conducted and determines that an immediate threat to the physical safety of any member of the University's community justifies the removal. When the emergency removal occurs, the student will receive notice of the removal and the opportunity to explain why the removal should not be implemented or should be modified. In the event the University imposes an interim removal, the University must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

A colleague Respondent may be placed on administrative leave through the conclusion of the grievance process. For all other Respondents, including independent contractors and guests, the University retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

X. Investigation Procedures

It is the University's policy to administer a fair, prompt, and impartial process for all parties involved in a sexual misconduct allegation. Upon receiving notice of an alleged violation, the Title IX Coordinator will contact the Complainant to offer supportive measures, describe the investigation and grievance process, and explain how to file a formal complaint, if a formal complaint was not submitted. As part of the initial response, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the report.

The Complainant reserves the right to, or not to, initiate an investigation and grievance process. In the event the Complainant requests that an investigation not occur, the request will be honored when possible and unless the University determines in good faith that failure to investigate creates a potential risk of harm to the Complainant or other members of the community. Regardless, the Complainant will be offered supportive measures. Factors used to determine whether to adhere to such a request include, but are not limited to whether:

- the Respondent has a history of violent behavior or is a repeat offender;

- the incident represents escalation in unlawful or prohibited conduct on behalf of the Respondent from previously noted behavior;
- there is an increased risk that the Respondent will commit additional acts of violence;
- the Respondent is alleged to have used a weapon or force;
- the Complainant is a minor;
- the University possesses other means to obtain evidence; and/or available information reveals a pattern of perpetration by a specific person, at a given location, or by a particular group.

In the event a Title IX Coordinator initiates an investigation, the Title IX Coordinator will sign a formal complaint, but is not considered the Complainant. The Complainant and Respondent are still entitled to the same rights and notifications throughout the investigation and grievance process. Investigation and response to allegations of misconduct will include the following: an interview with the Complainant and Respondent; identifying and interviewing witnesses; gathering evidence; and cooperating with law enforcement, when applicable.

The University will strive to complete to the investigation and grievance process within ninety (90) calendar days. If the process exceeds ninety (90) calendar days, the Complainant and Respondent will be notified in writing with an explanation of the delay and the University will provide periodic updates to the parties regarding the status of investigations. The University reserves the right to process counter-complaints with the underlying complaint, or separately after the underlying complaint is resolved.

The University's procedures shall run concurrently with any criminal justice investigation or proceeding, except for temporary delays as requested by external agencies while law enforcement gathers evidence. While the University may temporarily delay its processes under this policy to avoid interfering with law enforcement efforts if requested by law enforcement, the University will otherwise apply this policy and its processes without regard to the status or outcome of any criminal process.

1. Initial Assessment

Upon receipt of a formal complaint or report of an alleged violation of this policy, the Title IX Coordinator will conduct an initial assessment of the matter and determine next steps to take. The Title IX Coordinator will contact the Complainant to offer supportive measures, describe the investigation and grievance processes, and explain how to file a formal complaint, if a formal complaint was not filed. The following determinations will be included in the initial assessment:

- If the report alleges conduct that would, if true, meet the Title IX definition of sexual harassment and the Complainant filed a formal complaint, the Title IX Coordinator will initiate an investigation using the Title IX grievance process.
- If the report alleges conduct that would not, if true, meet the Title IX definition of Sexual Harassment or fall within the scope of Title IX Sexual Harassment, but constituted other prohibited conduct within this policy, the Title IX Coordinator will close the matter under the Title IX Sexual Harassment grievance process and may initiate an investigation using the Sexual Misconduct grievance process.
- If the report alleges conduct that would not, if true, rise to the level of Title IX Sexual Harassment or Sexual Misconduct as prohibited by this policy, the Title IX Coordinator will

dismiss the report, but may have educational meetings with the parties, as appropriate, or refer the matter to other University offices, as appropriate.

The University may consolidate Sexual Misconduct reports and/or Title IX Sexual Harassment formal complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances. A formal complaint of retaliation may be consolidated with a formal complaint of Title IX Sexual Harassment.

A formal complaint must be dismissed under the Title IX Sexual Harassment procedures if the Title IX Coordinator determines that:

- The conduct alleged in the formal complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the formal complaint did not occur in the University's education programs and activities and/or the University does not have control of the Respondent; or
- The Complainant was not participating in, or attempting to participate in, the University's education programs and activities; or
- The alleged conduct occurred outside the geographic boundaries of the United States.

At any point in resolving alleged violations of this policy, a formal complaint may be dismissed and/or reinstated between the two grievance processes as additional information is obtained. A complaint may be dismissed and/or reinstated between the two processes for the following reasons:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint.
- The Respondent is no longer employed or enrolled by the University.
- There are specific circumstances that prevent the University from gathering sufficient evidence to reach a determination on the allegations within the formal complaint.

If reinstatement or dismissal occurs, both parties will receive written notice with an explanation of the dismissal or reinstatement. Both parties have the opportunity to appeal a dismissal by providing written notification with rationale to the Title IX Coordinator within five (5) calendar days.

2. Notice of a Formal Complaint and/or Sexual Misconduct Report

Within five (5) calendar days of the Title IX Coordinator receiving a formal complaint or Sexual Misconduct report, the Title IX Coordinator will provide written notice to the Complainant and Respondent that includes:

- A physical copy of this Policy or a hyperlink to this Policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment or Sexual Misconduct, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual

Harassment or Sexual Misconduct and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;

- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice;
- Notifying the Complainant and Respondent of their right to inspect and review evidence;
- Notifying the Complainant and Respondent of the University's prohibition on retaliation and false statements specified in the Policy.
- Information about support that is available on campus and in the community.

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

When the Respondent is notified of a formal complaint, the Title IX Coordinator will also notify the Respondent of the availability of supportive measures, and the University will offer and make available supportive measures to the Respondent in the same manner in which it offers and makes them available to the Complainant.

3. Investigation/Fact-Gathering

After the written notice of a formal complaint and/or Sexual Misconduct report is issued to the parties, the Title IX Coordinator, or a designee serving as an investigator, will interview the Complainant and Respondent to gather information that may be relied upon to determine responsibility. The investigator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. Both parties will have the opportunity to submit evidence and identify witnesses related to the alleged incident; however, the burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties.

The investigator will also attempt to interview all witnesses. The investigator retains discretion to limit the number of witness interviews if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant. In most cases, prior sexual history with persons other than the other party will be excluded from the grievance process. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own. As needed, the investigator will follow up with the Complainant and Respondent to clarify information obtained from the other participants. The University does not permit any recording of meetings throughout the entirety of the investigation and grievance process by anyone other than the University. University meetings and hearings will be recorded by audio and/or video or through notetaking. Interview notes will be made available to the individual interviewed for clarification and/or verification of accuracy.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the formal complaint or Sexual Misconduct report. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited

from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

The investigation will culminate in a written investigation report that will be submitted to the Hearing Officer. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within forty-five (45) calendar days after providing written notice of formal complaint to the Complainant and Respondent.

The University expects all members of the community to cooperate fully with the investigation and grievance process. There may be circumstances in which the Complainant wishes to limit their participation. The Complainant reserves this right, however the University may still conduct an investigation. If the Respondent chooses not to participate in the investigation, the investigation, grievance process, and sanctioning, when applicable, may still proceed.

4. Access to Evidence

At the conclusion of the evidence-gathering phase of the investigation, but prior to the finalization of the investigation report, both parties and their advisors are entitled to review relevant evidence and evidence that is directly related to the complaint. Relevant evidence is inculpatory and exculpatory evidence that is to be used by the decision-makers to determine whether or not the alleged incident(s) occurred. Evidence that is directly related to the complaint is evidence that is neither inculpatory nor exculpatory but related to the complaint.

Both parties have ten (10) calendar days to submit a written response regarding the evidence to the investigator, which may include why evidence should be included or excluded from the final report. The investigator will consider each party's statement prior to the finalizing the investigation report.

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

5. Investigation Report

After the Respondent and Complaint have had the opportunity to review and provide a written response to the evidence, the investigator will finalize the investigation report that fairly summarizes the relevant evidence. The report will be provided to both parties in the same format as near to simultaneously as possible and will include the following information:

- The allegation(s)
- Applicable policies
- Timeline of events
- Interview summaries
- Fact analysis (undisputed, disputed, corroborated)
- Relevant evidence, including inculpatory and exculpatory

Both parties may respond to the report by providing a written statement to the Title IX Coordinator within ten (10) calendar days from when the report is issued. The grievance process

will occur no sooner than (10) calendar days after the final investigation report is issued. A party's written response to the investigation report must include:

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

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

- Argument regarding whether any of the allegations in the formal complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the formal complaint constitute Sexual Harassment.

XI. Grievance Process

At the conclusion of the investigation, one of two grievance processes will be used to determine if a policy violation occurred. The alleged conduct will be used as a basis in determining which grievance process will occur. The investigation report will be submitted as evidence to the Hearing Officer, Hearing Panel and/or University Human Resources and will be used in the grievance process. The University uses the preponderance of the evidence standard to determine whether or not violations of this policy occurred. The preponderance of the evidence standard means that the University will reach a determination regarding whether the facts that are supported by a preponderance of the evidence, or more likely than not, constitute one or more violations of the policy as alleged.

The grievance processes are independent of any and all procedures and proceedings under local, state, or federal criminal or civil law. The University reserves the right to pursue sanctions regardless of criminal prosecution, subject to the process outlined in this policy.

The University also reserves the right to outsource part of, or the entirety of the investigation and

grievance process, including investigators and advisors. Violations of this policy by a visitor, volunteer, vendor, agents, or other third parties affiliated with the University may also result in the termination of pre-existing or future relationships.

1. **Title IX Sexual Harassment Grievance Process**

Title IX requires that an institution must take certain steps to resolve a formal complaint of sexual harassment. If the alleged conduct meets the Title IX definition of Sexual Harassment, the Respondent, Complainant, and witnesses will participate in a live hearing, which can held virtually at the request of either party. When the Title IX grievance process is initiated, the Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process. Allegations of Sexual Misconduct will be resolved under the Sexual Misconduct grievance process.

A. **Hearing Officer and Hearing Notification**

The Title IX Coordinator will promptly appoint a Hearing Officer who will oversee the hearing process and, with the Hearing Panel, render a determination of responsibility for the allegations in the formal complaint at the conclusion of the hearing process.

No less than ten (10) calendar days prior to a hearing, the Hearing Officer will provide both parties written notice of the hearing date, time, location, and individuals participating in the hearing, including the Hearing Panel. Both parties will have the opportunity to object to the participation of any Hearing Panel member by providing a written statement detailing the rationale to the Title IX Coordinator at least five (5) calendar days prior to the hearing date. The Title IX Coordinator will review the written statement to determine if the panel member will be replaced. The hearing notice will also include a description of the alleged conduct, policies allegedly violated, and the range of possible sanctions.

B. **Advisors**

From the point a formal complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing, the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the University about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in this policy, the University may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

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

provides. The advisor the University provides may be, but is not required to be, an attorney. The University is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing

C. **Pre-Hearing Conference**

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

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

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

D. **Live Hearing**

All live hearings will be recorded by audio and/or video by the University. Participants may not create their own recordings. In the event a pre-hearing conference does not occur, the Hearing Officer will discuss and address questions regarding the hearing procedures at the beginning of the hearing.

The hearing will be conducted live, with simultaneous participation by the parties and their advisors. By default, the hearing will be conducted with the Hearing Officer, Hearing Panel, the parties, the advisors, witnesses, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

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

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;

- Opportunity for each party to raise objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief opening statement and closing argument.

The investigator will be the first to provide testimony at the hearing by summarizing the investigation report, followed by the Complainant. The Hearing Officer will determine the remaining order of the Respondent and witnesses. When testimony begins, the Hearing Panel will be the first to question the investigator, each party and all witnesses. After the Hearing Panel concludes their questioning, the advisors of both parties will have the opportunity to question the investigator, witness and other party. Complainants and Respondents cannot question witnesses and the other party directly.

All questions posed by an advisor will be subjected to a relevancy determination by the Hearing Officer. Once the question is posed, the Hearing Officer will state out loud whether the question will be allowed, disallowed, or the advisor will be asked to rephrase the question. Questions that are irrelevant, repetitive, or abusive will not be allowed. The Hearing Officer may ask why the advisor deems a certain question to be relevant but is not required to. When a question is not permitted, the Hearing Officer will provide a reason why the question was not allowed. Once the Hearing Officer makes a determination on a question, advisors cannot provide further arguments as to relevancy.

If a party or witness does not submit to questioning, any prior statement provided by that party may not be relied upon by the Hearing Panel when convening to make a final determination. Similarly, if a party or witness does not attend the hearing, no prior statements by that person can be used to make a final determination. However, the Hearing Officer may consider the testimony of any witness, whether given during the investigation or during the hearing, if the parties jointly stipulate that the testimony may be considered.

In applying this section, the Hearing Panel will not draw an inference about the determination regarding responsibility based solely on the absence of a party or a witness from the live hearing and/or refusal of a party or witness to submit to questioning.

E. Deliberation and Determination

After the hearing is complete, the Hearing Panel will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The Hearing Panel will exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or by operation of the section on participation in questioning at the hearing, above.

The Hearing Panel will resolve disputed facts using a preponderance of the evidence standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint. Although the length of each hearing and time frame to issue a determination will vary depending on the totality of the circumstances, the University strives to issue the hearing officer's written determination within fourteen (14) calendar days of the conclusion of the hearing.

2. **Sexual Misconduct Grievance Process**

Conduct that does not rise to the Title IX definition of Sexual Harassment will be resolved through the grievance process outlined in this section. Additionally, conduct that meets the Title IX definition, but is dismissed due to jurisdictional reasons, may be resolved via the Sexual Misconduct Grievance Process.

At the conclusion of the investigation report, both parties will have the opportunity to review the investigation report at least ten (10) calendar days prior to a review by a Hearing Panel. Both parties will have the opportunity to respond to the report by providing written notice to the Title IX Coordinator, who may elect to incorporate the response into the report or provide the response to the other party for response before finalizing the report. The Hearing Panel will review the report, make a determination, and when applicable, impose sanctions.

The University may elect to hold a live hearing for allegations of sexual assault, stalking and domestic violence and dating violence where both parties will be required to attend. In advance of the review/hearing, both parties will be notified to the identities of the individuals reviewing the matter. If either party believes a conflict of interest exists, they may provide a written statement detailing the conflict to the Title IX Coordinator within five (5) calendar days. The Title IX Coordinator will review the written statement to determine if a replacement is warranted.

3. **Colleague Grievance Processes**

Alleged violations of this policy by colleagues will be referred to University Human Resources for appropriate review and action. In addition, violations of this policy may trigger application of sanctions to a colleague imposed under local, state, or federal law. Title IX Sexual Harassment allegations involving a colleague, whether the colleague is the Complainant or Respondent, will be resolved via the Title IX grievance process defined in this Policy. When a colleague is the Respondent, and the Complainant is an individual other than a student, complaints that do not meet the Title IX definition of Sexual Harassment will be resolved via the University's Anti-Harassment and Non-Discrimination Policy located in UltiPro. Sexual Misconduct allegations against a colleague by a student will be resolved via the Sexual Misconduct grievance process defined in this Policy.

XII. Written Decision, Sanctions and Appeals

After a Hearing Panel reaches a determination at the conclusion of either grievance process, the parties will receive written notification at the same time and in the same manner of any final determinations, sanctions, and the University's appeal process.

1. **Written Decision**

The Hearing Officer will prepare a written decision that will detail the allegations potentially constituting Title IX Sexual Harassment and/or Sexual Misconduct, the procedural steps taken from the receipt of the complaint through the determination, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location and people who were present at or presented testimony at the hearing; factual findings made under a preponderance of the evidence standard supporting the determination; conclusions regarding the application of this policy to the facts, the rationale for the result as to each allegation and a determination regarding responsibility for each allegation, the sanction for each allegation, and whether or not the Complainant will receive remedies. The purpose of remedies are designed to restore or preserve equal access to the University's education program and activities. The Title IX Coordinator is responsible for implementing any remedies. The hearing officer's written determination will be sent to the parties, which concludes the hearing process, subject to any right of appeal.

2. **Sanctions and Remedies**

In the event the Hearing Panel determines that the Respondent is responsible for violating this Policy, the Hearing Panel will determine any discipline to be imposed. The Hearing Officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant.

Sanctions for substantiated violations of this policy by students may include a written warning, training, probation, suspension, expulsion, suspension of services, ineligibility for services, limiting order, or a ban from University property and events. Sanctions for colleagues found responsible for Title IX Sexual Harassment may include written reprimand, warning, probation, suspension, change in job assignment, office relocation, or termination of employment or contract, and will be imposed in accordance with applicable University policies and procedures. Past findings of Title IX Sexual Harassment, Sexual Misconduct or other Code of Conduct violations may be admissible when determining sanctions.

3. **Appeals**

The parties have the opportunity to appeal the determination. Appeals must be submitted in writing to the person identified on the written decision within seven (7) calendar days of the date on the written decision. The appeal must explain the basis for appeal and must be based on one or more of the following:

- Procedural irregularities that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, which could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, which affected the outcome of the matter; or
- The sanctions were not reasonably appropriate for the violation.

If the Appeals Officer confirms that the appeal is timely and meets at least one permitted ground for appeal, the Appeals Officer shall promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the appeal. The Appeals Officer will also provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) calendar days. Upon receipt of any opposition, or after the time period for submission of an opposition has passed without opposition being filed, the Appeals Officer will promptly decide the appeal.

The Complainant and Respondent will receive the appeal decision in writing within seven (7) calendar days after the decision or as determined by federal or State requirements. The written decision provided to the parties will explain the outcome of the appeal and the rationale. Should any change in outcome occur prior to finalization (e.g., a re-hearing ordered upon appeal), the parties will be informed at the same time and in the same manner and will be notified when the result of the grievance process is finalized.

Although the length of time necessary to decide each appeal will vary depending on the totality of the circumstances, the University strives to issue the Appeals Officer's written decision within (21) calendar days of an appeal being filed. No further review beyond the appeal is permitted, and the outcome decided by the Appeal Officer is final. Sanctions will not go into effect until the timeframe to appeal lapsed or a determination is made on an appeal. Violations of this policy may also trigger application of sanctions to a Respondent under local, state, or federal law.

XIII. Informal Resolution

At any time after the parties are provided written notice of the formal complaint, and before the completion of any appeal, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution with the goal of resolving the allegations raised in the formal complaint by agreement of the parties. The Title IX Coordinator or designee will conduct the informal resolution process.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will provide a written notice to the parties that:

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

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

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

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator does not believe that the resolution is clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself.

Informal resolution pursuant to this Section is not subject to appeal, however, the complaint and resolution may be revisited upon a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) calendar days after the Title IX coordinator provides the informal resolution notice described above. If an informal resolution process does not result in a resolution within twenty-one (21) calendar days, and there is no extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the formal complaint will be resolved pursuant to the investigation and grievance process. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or grievance process that were suspended due to the informal resolution.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized. Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee of the University accused of committing Title IX Sexual Harassment against a student.

XIV. Prevention and Awareness

The University will provide primary and ongoing awareness and prevention programs covering the continuum of issues contemplated by this policy. Themes will include situational awareness and prevention strategies, such as bystander intervention and other forms of risk reduction. While bystander intervention specifically refers to the safe and effective ways that third parties can intervene to thwart sex and/or gender-based misconduct, risk reduction also encompasses various strategies to eliminate or reduce risk of harm by avoiding or removing oneself from situations that are dangerous or uncomfortable.

1. Risk Reduction

Responsibility for sexual misconduct rests with those who commit such acts, and risk reduction tips are not intended to assign blame to Complainants. Certain precautions may effectively limit exposure to situations that could result in nonconsensual sexual acts. The following is non-exclusive list of precautions that may limit risk:

- Communicate limits/boundaries and respect the limits/boundaries of others.
- Clearly and firmly say “No” to a sexual aggressor.
- If possible, leave the physical presence of a sexual aggressor or otherwise violently aggressive person.
- If someone is nearby, ask for help.
- Take responsibility for your alcohol and/or drug use. Acknowledge that alcohol and drugs lower sexual inhibitions, impair judgement as to right and wrong behavior and may make parties vulnerable to those who see an impaired person as a sexual opportunity.
- Do not take advantage of someone’s intoxication or altered state, even if alcohol or drugs were consumed willingly.
- If you choose to share intimate images, pictures, videos or content with others, even those you trust, be clear about your expectations regarding how the information may be used, shared or disseminated. If such content is shared with you, do not share it with others.
- Take care of friends and ask that they take care of you.
- As a sexual initiator, clearly communicate your intentions and give your sexual partner the opportunity to clearly communicate the same.
- Do not make assumptions about consent, sexual availability, sexual attraction, how far an interaction can go, or about physical and/or mental ability to consent.
- Remember that consent should be affirmative and continuous. If there is any question or ambiguity, you should proceed as if you do not have consent.
- Consider mixed messages from a partner to be an indication that sexual conduct should stop so that better communication can occur.
- Recognize the potential for a sexual partner to feel intimidated or coerced by you as a result of a power advantage, your gender, your demeanor or your physical presence. Do not use or abuse that power.

2. Bystander Intervention

Intervention by classmates, colleagues and others within proximity to the precursors or signs of possible sexual misconduct can significantly impact the course of an interaction between a potential perpetrator and victim. Bystanders may also encourage friends, classmates and colleagues who are already experiencing victimization to seek assistance sooner than they may have without encouragement, support, or acknowledgement.

Community members are encouraged to recognize warning signs and to consider possible methods of interference in various scenarios before opportunities to intervene arise. By planning ahead, we all maximize the likelihood of being empowered to take safe actions to either prevent sexual misconduct or offer paths to eliminate ongoing victimization.

When a member of the University community observes threatening, coercive, forceful, aggressive or harassing behavior, it is important to assess the situation to determine the best possible course of action for all concerned. Some forms of intervention are direct, while others will be less apparent to the perpetrator or others within range of the interaction. Examples of possible intervention include but are not limited to:

- Making up an excuse to get someone out of a dangerous situation.

- Stepping in to change the course of an interaction.
- Warning potential or perceived perpetrators that their actions may lead to severe consequences.
- Refusing to leave the company of a potential victim despite efforts by an aggressor or pursuer to get the potential victim alone.
- Remaining on the scene of observed misconduct and offering to make a statement or act as a witness subsequent to intervention by security, administration or the police.
- Taking steps to reduce alcohol or drug consumption within a potentially dangerous social situation.
- Calling and cooperating with security, administration, the police or others to assist with intervention and accountability.
- Expressing concern or offering resources when you notice someone with unexplained or frequent injuries.
- Refusing to consider sex and/or gender-based misconduct a personal or private matter between the victim and the perpetrator.

3. Awareness Programs

In an effort to increase the likelihood of intervention and reduce the risk of sex and/or gender-based misconduct from occurring among its students and colleagues, the University is committed to providing primary and ongoing awareness and prevention programming.

Awareness programs are events that occur online or in person relating to identification and prevention of sex and/or gender-based misconduct that request active engagement of community members. It is the expectation and responsibility of each member of the University community to participate in programming that will assist with ongoing prevention efforts and effective and efficient identification and response when sex and/or gender-based misconduct does occur.

a. Primary Prevention and Awareness Programming

The University delivers prevention and awareness programming via a third-party online education platform to all colleagues and students and student-facing vendors, if necessary and appropriate.

- New, transfer, and readmit students will receive access to the training during their first session of enrollment.
- Students who do not complete the training during their first session are issued the training in each subsequent session of enrollment until the training is completed.
- New colleagues within their first three months of employment.
- All colleagues annually.
- Specific vendors as identified when appropriate.

Access to the primary prevention program and its contents will be ongoing throughout the participant's relationship with the University. Members of the University's community are encouraged to visit this resource regularly for personal, professional and academic purposes.

b. Ongoing Prevention and Awareness Programming

Ongoing prevention and awareness programming are public service announcements and campaigns, as well as messages and activities integrated into the day-to-day fabric of the academic community. These initiatives are intended to reinforce increased awareness regarding sex and/or gender-based misconduct and prevention strategies throughout the year. The University will continually seek formal and informal ways to incorporate additional awareness and prevention strategies (e.g. active and passive educational campaigns such as social norms poster campaigns, newsletter articles, presentations and volunteerism with local community resource agencies).

c. Additional Training

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

XV. Additional Policies

The following policies also apply to reports of sexual misconduct.

1. Amnesty

The University encourages the reporting of sex and gender-based misconduct by victims and witnesses who are sometimes hesitant to report to University officials or participate in the investigation and grievance processes because of concern that they may be accused of policy violations, such as underage drinking or drug use at the time of the incident. It is in the best interest of the community that victims and witnesses come forward to share what they know regarding violations of this policy. To encourage reporting, victims and witnesses may be provided with educational options, rather than punitive sanctions, for minor policy violations.

Similarly, the University encourages direct assistance to those in need of support as a result of sex or gender-based misconduct. In instances where minor policy violations are revealed as a result of a person providing assistance to a victim, policy violations should not be overlooked. However, the University may provide educational options, rather than punitive sanctions, to those who offer their assistance.

2. Confidentiality

The University wishes to create an environment in which individuals feel free to discuss concerns and make complaints. The University understands that reporting parties, witnesses, and others involved in the investigative process may be concerned about the confidentiality of the information they are sharing. In some cases, however, the University may be obligated to take action when it becomes aware of information relating to a complaint.

Confidentiality in cases of sex and/or gender-based misconduct will be maintained to the extent permissible by law and consistent with the University's obligations to investigate complaints. While the confidentiality of information received, the privacy of individuals involved, and

compliance with the wishes of the Complainant or witnesses cannot be guaranteed, they will be respected to the extent possible and appropriate.

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

The University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law. The parties involved in a report or formal complaint will be given access to investigation and adjudication materials in the circumstances specified in this policy.

While the University will maintain confidentiality specified in this Section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Sexual Misconduct, Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.

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

3. **Privacy**

Privacy of records specific to sexual misconduct investigations are maintained in accordance with applicable law, including FERPA. Any public release of information to comply with the timely warning provisions of the Clery Act will not include the names of victims or information that could easily lead to a victim's identification. In appropriate instances, pertinent interim actions and disciplinary hearing outcomes will be disclosed to the reporting and responding parties.

4. **False Information**

Filing an intentional false report of an incident, intentionally making false statements, or intentionally providing false information during the course of the investigation and grievance process is a violation of the Student Code of Conduct and may also be a crime.

5. **Retaliation**

Retaliation is any adverse action taken against a person participating in a protected activity under this policy because of their participation in that protected activity. Protected activity under this policy includes reporting an incident of sex and/or gender-based misconduct or assisting or participating in a proceeding, investigation or hearing relating to such allegations.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, threat, coercion, discrimination, or harassment. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in connection with a report or the investigation and grievance process is not considered retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party intentionally made a materially false statement.

Any allegation of retaliation should be reported to the Title IX Coordinator and will be treated as an independent Title IX complaint requiring consideration of appropriate reparative interim action, as well as investigation and resolution as described in this policy.

6. Bias and Conflicts of Interest

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. Any party who believes one or more University officials managing the investigation and grievance process has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. At any point in the investigation and grievance process, either party may raise an issue of bias or conflict of interest of an investigator or decision-maker to the Title IX Coordinator. If the Title IX Coordinator is also the investigator, concerns may be raised to the University's Senior Director of Regulatory Affairs.

7. Privileged Information

During the investigation and grievance processes, neither the investigator nor any adjudicator may access, consider, disclose, permit questioning concerning, or otherwise use:

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

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be. The University must obtain the party's voluntary, written consent prior to using privileged information during the investigation and grievance process.

8. Recordkeeping

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

XVI. Support and Resources

The following procedures and resources are applicable to reports of sexual misconduct.

1. Procedures to Follow After a Sexual Misconduct Incident

Victims of any sexual misconduct that might constitute a crime, including domestic violence, dating violence, sexual assault, stalking, and/or rape (including acquaintance rape) that impacts the University community may, and are encouraged to, contact local law enforcement authorities.

Whenever possible, victims should report a violation of this policy as soon as possible and preserve evidence that may be necessary to prove that the reported incident(s) occurred. Victims of sexual assault or rape are strongly encouraged to report the incidents to deter future assaults and to ensure that victims receive the services they need.

In addition, victims should obtain immediate medical attention for their safety and well-being. Note that obtaining medical attention as soon as possible, ideally within 72 hours of an incident, is particularly important in the case of rape and other forms of sexual assault. A hospital or other appropriate medical provider will provide a specific medical examination at no charge, and a victim will not be required to file a police report to obtain a medical examination. To preserve evidence, victims should not, if at all possible, bathe, shower, comb hair, douche, eat, drink, smoke, brush teeth, urinate, defecate or change clothes before a post-incident exam. However, victims should always seek prompt medical care, even they have already taken any of these actions. Additionally, victims should gather bedding, linens, unlaundered clothing and any other pertinent articles that may be used for evidence and secure them in a clean paper bag or clean sheet.

The following steps may help victims deal with physical and emotional trauma associated with the incident:

- Go to a safe place; go somewhere to get emotional support.
- Consider reporting the incident to the police. If requested, the University will assist with notification.
- Report the misconduct to the student central leader, conduct administrator, complaint administrator, one-up manager, campus incident commander, campus leadership, Title IX Coordinator, or University Human Resources.
- Even after the immediate crisis has passed, consider seeking professional counseling and the support of local and specialized support agencies, such as sexual assault recovery centers and domestic violence safe houses. This can help to recover from psychological effects and provide a safe environment for recovery.
- Contact the Student Central leader, academic advising team lead (for online), conduct administrator, complaint administrator, one-up manager, Title IX Coordinator, or University Human Resources if you need assistance with University related concerns, such as implementing no-contact orders or other protective measures.

Victims are not required to report an incident to law enforcement authorities, but campus authorities will assist victims who wish to do so. The University may also liaise with local authorities to assist an individual who wishes to obtain protective or restraining orders. Anyone with knowledge about a sexual assault or other sex or gender-based misconduct is encouraged to report it immediately to the Title IX Coordinator in order to permit a coordinated report to applicable law enforcement authorities when appropriate. Nothing in this policy prohibits a

student or colleague from reporting a crime directly to local authorities.

2. Confidential Resources

Confidential resources are available to discuss incidents without triggering an immediate report to the Title IX Coordinator and institutional or organizational response, both of which may result in or require that the reporter or impacted party being identified. Confidential resources also permit exploration of reporting options and possible consequences before filing a formal report. State or profession specific mandatory reporting laws related to certain types of concerns (i.e. child sexual abuse) may require a confidential resource to report an incident to identified enforcement agencies.

If students or colleagues wish to speak with someone who can assure confidentiality, they may access counseling services available by referral through the University's third party provider, ASPIRE, at (888) 470-1531 or info@myASPIREonline.com (for students) or UHC at (866) 248-4096 or www.liveandworkwell.com (for colleagues). Additional confidential resources may be available on or off campus and vary by location. (See the student handbook or campus-specific website).

3. National Resources

Rape, Abuse & Incest National Network (RAINN)

1-800-656-4673

<https://www.rainn.org/>

RAINN, one the nation's largest anti-sexual violence organizations, created the National Sexual Assault Hotline. RAINN operates the hotline in partnership with more than 1,000 local sexual assault service providers across the country.

National Domestic Violence Hotline

1-800-799-7233

<https://www.thehotline.org/>

This confidential and free hotline is available 24/7 to callers. The National Domestic Violence Hotline provides tools and immediate support to enable victims to find safety and live lives free of abuse. The organization offers referral services in more than 200 languages.

VictimConnect Resource Center

1-855-484-2846

<https://victimconnect.org/>

The VictimConnect Resources Center is a referral helpline where crime victims can learn about their rights and options confidentially. The organization serves victims of crime in the United States and will refer victims to the most appropriate local or national resources based on their experience and needs.

National Suicide Prevention Lifeline

1-800-273-8255

<https://suicidepreventionlifeline.org/>

The National Suicide Prevention Lifeline is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Loveisrespect

1-866-331-9474

<https://www.loveisrespect.org/>

Loveisrespect engages, educates and empowers young people to prevent and end abusive relationships. Advocates offer support, information and advocacy to young people who have questions or concerns about their dating relationships. Free and confidential phone, live chat and texting services are available 24 hours a day, 7 days a week.

4. University and Local Resources

Local Resources can be found in the University’s Annual Disclosure reports distributed to each campus community and posted on the [Student Consumer Information](#) page of the University’s web site. The reports are available by location and contain local resources available to victims of sex and gender-based misconduct. Contact information for local resources may also be obtained by contacting the Title IX Coordinator.

The University offers mental health counseling services through third parties. Students may seek support through ASPIRE at (888) 470-1531 or via info@myASPIREonline.com, and colleagues may seek support 24 hours a day, seven days a week through United Health Care’s Colleague Assistance Program at (866) 248-4096 or www.liveandworkwell.com.

XVII. Revision History

Date	Version	Changes
10/14/2020	3.1	<ul style="list-style-type: none"> • Added a “Title IX Grievance Process” to align with the 2020 Title IX regulations. • Added “Contents” • Updated “Purpose” and “Scope” • Separated “Prohibited Conduct” from “Terminology” • Updated “Investigation Procedures” and “Grievance Process” • Updated “Additional Policies” • Other updates to formatting and ordering of the sections
02/13/2020	3.0	<ul style="list-style-type: none"> • Updated Regulatory Affairs Manager to Senior Director • Updated “Resources for Victims of Sexual Misconduct” organizations • Updated “Support and Resources” • Updated “Sanctions for student misconduct”
10/22/2018	2.1	<ul style="list-style-type: none"> • Updated colleague resources • Updated Title IX Coordinator email address
06/20/2018	2.0	<ul style="list-style-type: none"> • Updated to institution-specific policy • Updated Title IX Coordinator contact information

08/25/2017	1.0	<ul style="list-style-type: none">• Updated collective name from DeVry Education Group to Adtalem Global Education• Updated Title IX Coordinator contact information
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