



PROCEDURES FOR RESOLUTION OF COMPLAINTS OF SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE AND STALKING	
Related Policy	Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking
Responsible Office	Provost and Vice President for Academic Affairs/Finance and Administrative Services
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SUMMARY

These *Procedures for Resolution of Complaints of Sexual Misconduct, Relationship Violence, and Stalking* (“Procedures”) are related to the *Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking* (“Policy”). See Policy for the definitions of capitalized terms contained in these Procedures.

I. PROCESS

A. Initiating the Disciplinary Process

As outlined in the Reporting, Resources, and Processes section of the Policy, an individual, whether the alleged victim (Complainant) or not, is encouraged to report an alleged incident of Sexual Misconduct, Relationship Violence, and/or Stalking directly to the Title IX Coordinator, a Deputy Title IX Coordinator, the Dean of Students, Department of Public Safety, or Assistant Vice President of Human Resources. Reports may also be made to Responsible Employees or Confidential Reporting locations.

The University will maintain fairness for all parties and balance the needs and interests of the individuals involved with the safety of the community as a whole throughout the investigation and resolution process. It is the University’s intent to provide prompt, fair and impartial investigations and resolutions of such complaints, conducted by officials who receive annual training on the issues related to Sexual Misconduct, Relationship Violence, and Stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

B. Specific University Disciplinary Processes

These Procedures apply to all complaints received by the University involving student, faculty, staff, and administrator Respondents.

For complaints where the Respondent is an individual unaffiliated with the University, although the University cannot pursue disciplinary action against the Respondent, the University can assist the Complainant in many ways, including, but not limited to, by ensuring that the Complainant receives appropriate medical care, interim and remedial measures; coordinating reporting and follow-up with outside law enforcement; and providing supporting during off-campus procedures.

C. Title IX/VAWA Intake Assessment

In every report of Sexual Misconduct, Relationship Violence, and Stalking, the University, through the coordinated efforts of the Title IX Team, will conduct a Title IX/VAWA Intake Assessment. Members of the Team are identified in the Policy.

The purpose of this Intake Assessment is to determine if the conduct reported, if true, could constitute a violation of the Policy. If it could, the matter should proceed as discussed below. If it could not, the Complainant/Reporter will be notified of same in writing, and the matter closed.

D. Initial Meetings With Parties

Once an Intake Assessment is made, if the matter is to move forward, a member of the Team shall do the following:

- Meet with the Complainant/Reporter to understand in more detail the allegations;
- Address immediate physical safety and emotional well-being of the parties;

- Assess the nature and circumstances of the allegation(s);
- Notify the Complainant of the range of interim accommodations and remedies available to him/her;
- Notify the Complainant of his/her/hir right to contact law enforcement and seek medical treatment;
- Notify the Complainant of the importance of preservation of evidence;
- Advise the Respondent of the nature of the charges against him or her (or, if multiple Respondents, them) and provide the same notice to the Complainant;
- Provide the Respondent with information about pertinent interim measures;
- Provide the Complainant/Respondent with information about on-and off-campus resources, including confidential resources;
- Provide the Complainant/Respondent with an explanation of the procedural options, including Informal Resolution (when appropriate) and Formal Resolution;
- Explain the University's policy prohibiting Retaliation;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding;
- Take steps to ensure that, if appropriate, the matter is entered into the University's daily crime log; and
- Assess the reported conduct for the need for a timely warning under the Clery Act.

After these meetings occur, the Team will meet and determine the appropriate next steps, including implementing any reasonable and appropriate interim measures, conducting any investigative steps, and resolving the complaint formally or informally. With the exception of recordings performed by the University during Judicial Board Hearings, no recordings are permitted during any stage of the Title IX process.

E. Timeframes for Resolution of a Complaint

The University seeks to resolve all reports of Alleged Sexual Misconduct, Relationship Violence, and Stalking within 60 calendar days. All timeframes expressed in these Procedures are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of timeframes, including extension beyond 60 calendar days.

Extenuating circumstances may include, but are not limited to, the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a Complainant and Respondent can expect to receive periodic updates as to the status of the review or investigation. In the event that the investigation and resolution exceed the anticipated timeframe, the University will notify all parties in writing of the need for additional time, and best efforts will be made to complete the process in a timely manner while balancing principles of thoroughness and fundamental fairness with promptness.

F. Investigation

Once the initial assessment confirms that the matter falls within the scope of these Procedures, the University will initiate an investigation, consistent with the section of the Policy titled Requests for Confidentiality. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect.

The University may designate an investigator of its choosing from inside or outside of the University. The investigator will be an individual who has specific training and experience (and who receives annual training on) investigating allegations of Sexual Misconduct, Relationship Violence, and Stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The University will typically designate a member of Public Safety or a Deputy Title IX Coordinator to conduct an investigation. The University may also choose to engage an external investigator at its discretion.

The University will seek to conduct the investigation promptly upon receiving the complaint. This time may be extended depending on the complexity of the circumstances of each case.

The investigator will coordinate and conduct fact gathering from the Complainant, the Reporter (if different from the Complainant), the Respondent, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The first step of an investigation will usually be an interview of the Complainant. The interview of the Complainant will inform next steps.

During the investigation, the Respondent shall have the opportunity to understand the charges against him/her and shall have the right to have an advisor of his/her choice (as discussed below) present at any meeting. Similarly, the Complainant shall have the opportunity to understand the Respondent's response and to have an advisor of his/her choice present at any meeting. If determined to be appropriate in the sole discretion of the investigator, underlying documents, redacted as appropriate, may be shown to the Complainant or Respondent to help them understand the charges/response.

After the investigation is complete, the investigator shall create an investigation report that will contain the following information:

- Name of Complainant(s)
- Name of Reporter (if different)
- Name of Respondent(s)
- Policy Provisions Alleged to Have Been Violated
- Chronology of interviews
- Summary of the incident
- Summary of key documents and material reviewed

G. Applicable Grievance Procedures

While other University policies, procedures, and handbooks, including the Student and Faculty Handbooks and the University's *Non-Discrimination/Non-Harassment and Affirmative Action and Equal Employment Opportunity Policy* and related procedures, outline various available grievance processes and procedures, when adjudicating conduct prohibited by the Policy, these Procedures apply.

The specific procedures applicable to a complaint will be determined by the role of the Respondent:

- Complaints against students will be resolved pursuant to the procedures set forth in [Appendix A](#).
- Complaints against employees (both faculty and staff) will be resolved pursuant to the procedures set forth in [Appendix B](#).

APPENDIX A

Grievance Procedures Applicable to Student-Respondents

Any person may make a report against any student or student organization for alleged violation(s) of the Policy. Although such a report may be made through a number of reporting sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator, who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence, and address its effects. Per the Procedures, upon receipt of a Complaint alleging a violation of the Policy, the University—through the Title IX Team—will conduct a Title IX/VAWA Intake Assessment to determine whether the conduct reported, if true, would constitute a violation of the Policy.

Once the Intake Assessment confirms that the matter falls within the scope of the Procedures, the Title IX Team makes a determination as to whether Informal Resolution of the Complaint, as described below, is appropriate. If Informal Resolution is not appropriate, an investigation of the Complaint, as described in the Procedures, is conducted followed by Informal or Formal Resolution of the Complaint, as described below.

I. Advisors

In all disciplinary meetings, including hearings, the Complainant and Respondent both have the right to be assisted by an advisor of his/her choice. The Dean of Students can provide a list of trained advisors who can guide the Complainant(s) and Respondent(s) through the pre-hearing and hearing process.

The advisor may accompany a Complainant or Respondent to any meeting during the disciplinary process with a University employee or investigator, and to the hearing. The role of the advisor is to provide support; the advisor may not speak on behalf of the Complainant or Respondent or otherwise directly participate in the investigative process or in the hearing.

Absent extenuating circumstances, witnesses and others involved in an investigation or hearing are not entitled to have an advisor.

II. Types of Resolution Applicable to Complaints

1. Informal Resolution

Informal Resolution is an educational and remedies-based approach to the resolution of complaints. If the Team determines that Informal Resolution may be appropriate following the Intake Assessment, the University will take immediate and corrective action through individual and community remedies designed to maximize the Complainant's access to the educational, programs and activities at the University.

Examples of potential remedies are provided in the section of the Policy titled Interim Measures, Remedies, and Accommodations. Other potential remedies include targeted or broad-based educational programming or training.

In cases that do not involve Sexual Violence, mediation and other restorative justice options may be an appropriate form of informal resolution. Mediation is never appropriate in a case involving Sexual Violence, nor in a Dating Violence, Domestic Violence Or Stalking case with a Sexually Violent component to it.

The decision to pursue Informal Resolution may be made before, during or after a full factual investigation by the University.

2. Formal Resolution

Formal Resolution is a judicial, sanctions-based process that may involve discipline and remedial action. Formal Resolution of a report under the Policy may occur through the use of an Administrative Hearing or a Judicial Board Hearing.

The Dean of Students has discretion to determine which Formal Resolution model is more appropriate, factoring in the parties' requests for resolution through an Administrative Hearing or a Judicial Board Hearing. In determining which method of resolution is appropriate, the Dean of Students may consult with the Title IX Coordinator as necessary.

III. Next Steps After Investigation

At the conclusion of the investigation, the Dean of Students will review the investigation report. If, based on the facts gathered in the investigation report, no reasonable person could determine that there was a Policy violation, the Dean of Students shall make this determination and advise both parties in writing.

If the Dean of Students determines that a violation of Policy could plausibly have occurred based on the investigation report, he or she shall then determine whether Informal Resolution is appropriate given the nature of the conduct discovered. If so, the Dean of Students shall offer Informal Resolution to both parties, and if both parties agree, the matter shall be resolved through Informal Resolution.

If the Dean of Students determines that a violation of Policy could plausibly have occurred and Informal Resolution is not appropriate, the matter shall move forward toward Formal Resolution. If the Complainant does not wish to participate in Formal Resolution, the University may, in its discretion, step into the shoes of the Complainant and proceed as the Complainant for purposes of Formal Resolution.

IV. Prehearing Procedures for Formal Resolution

A. Prehearing Meetings with Complainant and Respondent

When formal resolution is deemed necessary based on the review of the investigation report, the Dean of Students will contact the Complainant and Respondent to schedule meetings with each party individually.

At this prehearing meeting, the Title IX Coordinator and Dean of Students will meet with each party. During the meeting, the party will receive an explanation of the hearing process and have the opportunity to ask any questions before the hearing occurs. If the Complainant and/or Respondent has elected to have advisors throughout the hearing process, the advisor is encouraged to accompany the Complainant/ Respondent to this initial meeting.

B. Notice of Hearing

Once each party has met with the Title IX Coordinator and Dean of Students, a Notice of Hearing is sent by the Dean of Students to the Complainant and the Respondent. The Notice of Hearing provides each party with a statement of the Policy violation(s) that are alleged to have taken place and a summary of the facts underlying the allegations. In addition, the Notice provides the parties with the date, time, and place of the hearing. All parties will be informed of the name(s) of the person(s) hearing the case at least seven business days prior to the hearing, and they shall have 48 hours thereafter to object to any of the hearing personnel on the basis of an alleged bias or conflict.

In general, the hearing will be scheduled approximately three weeks after the Notice of Hearing is sent. Under extenuating circumstances, this timeframe may be extended by the Dean of Students.

C. Pre-Hearing Review of Documents

The Complainant and the Respondent will each have the opportunity to review the investigation report, redacted as appropriate, at least ten business days prior to the hearing.

D. Relevance of Evidence

The Dean of Students, in conjunction with the Title IX Coordinator, has sole discretion to determine whether any proffered information or witness is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Dean of Students and Title IX Coordinator may reject or redact information that is irrelevant, more prejudicial than probative, or immaterial. The Dean of Students and Title IX Coordinator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. Moreover, cumulative “character witness” testimony is generally not relevant in these matters.

1. Prior Sexual History and/or Pattern Evidence

Advance permission must be sought by either party seeking to bring forth information concerning the other party’s prior sexual history, pattern evidence, evidence of similar conduct, or a prior finding of responsibility as to Sexual Misconduct or dishonesty related to accusations of Sexual Misconduct. Such requests must be submitted during the investigative phase, unless the information was not previously known to the parties. The Dean of Students and Title IX Coordinator will judge the admissibility of such information.

E. Request to Reschedule Hearing

Either party can request to have a hearing rescheduled for good cause. Absent extenuating circumstances, requests to reschedule must be submitted to the Dean of Students at least five business days prior to the hearing. The Dean of Students shall be the sole authority for determining whether good cause exists to reschedule the hearing.

F. Consolidation of Hearings

The Dean of Students, in his/her discretion, may consolidate multiple reports against a Respondent into one hearing if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct, which would regularly have been heard under the Student Handbook, the Faculty Handbook, or the *Non-Discrimination, Non-Harassment, Affirmative Action and Equal Employment Opportunity Policy*.

G. Safeguarding of Privacy

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. No copies of any materials distributed at the hearing are to be made or shared with any third parties. All materials provided at the hearing must be returned to the Dean of Students at the conclusion of the hearing. Any breach of this duty is subject to further disciplinary action by the University.

V. Types of Hearings That May Be Applicable to Complaints of Sexual Misconduct, Relationship Violence, and Stalking

A. Administrative Hearing

An Administrative Hearing is appropriate only when both parties and the Dean of Students agree to a resolution by an Administrative Hearing. Depending upon the nature and severity of the allegations, the Dean of Students may decline to handle the matter administratively and refer the case to a Judicial Board Hearing. An Administrative Hearing is particularly appropriate when the Respondent has admitted to the conduct and there is no discernible dispute in the relevant facts of the investigation report. The Dean of Students may also find an Administrative Hearing appropriate when the facts are in dispute.

In an Administrative Hearing, the Dean of Students will meet with both parties. In preparation of the Hearing, both parties will have Notice of the Hearing and the opportunity to review the investigative report. At the time of the Administrative Hearing, the parties will each have the opportunity to present relevant information to the Dean of Students who will determine responsibility and a sanction, if appropriate.

In reaching a decision as to whether the Policy has been violated, the Dean of Students will reach a determination by a preponderance of the evidence. Under the preponderance of the evidence standard, the Dean of Students will determine whether the conduct was “more likely than not” to have occurred as alleged. In reaching a determination of responsibility, the Dean of Students will use the investigative report as the primary evidence.

After the Dean of Students renders a decision, the Dean of Students will issue an appropriate sanction, if applicable. The Dean of Students in consultation with the Title IX Coordinator, will also implement any appropriate and reasonable remedial measures as outlined in the section of the Policy titled Interim Measures, Remedies, and Accommodations section. Both a Complainant and Respondent may appeal the determination of the Dean of Students as provided in the Appeal section below.

B. Judicial Board Hearing

The Judicial Board is a fact-finding hearing board consisting of University faculty, trained in student conduct procedures, that typically hears cases that might result in serious disciplinary action by the University. Judicial Board members are trained at least annually in the dynamics of Sexual Misconduct, Relationship Violence, and Stalking, the factors relevant to a determination of credibility, the appropriate manner in which to receive and evaluate sensitive information, the appropriate manner of deliberation, and the application of the preponderance of the evidence standard, as well as the University’s policies and procedures.

Consistent with privacy considerations, the University will inquire with each prospective Judicial Board member whether they believe they can be fair and impartial in a hearing. Additionally, as noted above, the Complainant and/or the Respondent may ask in writing that a member of the Board be removed if there are reasonable, articulable grounds to suspect bias, a conflict of interest, or an inability to be fair and impartial. In addition, the University will take into consideration any other reasonable factor, including, whether the party/ies have had significant interaction with a certain Board member or the likelihood that a party will have significant interaction with a certain Board member.

Failure to object prior to the hearing will forfeit one’s ability to appeal the outcome based on alleged bias or conflict.

If a hearing must be held at or after the end of the semester and a full Judicial Board cannot reasonably be convened, the hearing may be heard by a modified composition of the Board. The Complainant and the Respondent will be asked to sign a waiver exempting Board composition as grounds for appeal. Alternatively, the hearing may be deferred until a full board is available or when the academic calendar is commenced.

VI. The Formal Hearing Process

A. Identification of Witnesses

The Complainant, Respondent, and members of the Hearing Board all have the right to call witnesses at the hearing. Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character.

In general, neither party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the University's investigation. If either party wishes to call witnesses, whether or not they were previously interviewed as part of the University's investigation, the following must be submitted no later than ten business days before the hearing to the Dean of Students via e-mail:

- The names of any witnesses that the party intends to call;
- A written statement and/or description of what each witness observed, if not already provided during investigation;
- A summary of why the witness's presence is relevant to making a decision about responsibility at the hearing; and
- The reason why the witness was not interviewed by the investigator, if applicable and known.

The Title IX Coordinator and/or Dean of Students has sole discretion to determine if the proffered witness(es) have relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Title IX Coordinator may also require the investigator to interview the newly proffered witness(es). The University will make every attempt to complete any further investigation in an expedited manner. However, if new information or requests for witnesses are presented, further investigation may cause delay in the hearing process.

If witnesses are approved to be present, the Respondent and Complainant will be provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than five business days before the hearing.

B. Attendance at Hearing

If a party does not attend a hearing, for any non-emergency or un-compelling reason, the hearing may be held in his/her/hir absence at the discretion of the Dean of Students. If a student chooses to withdraw or take a leave from the University prior to the conclusion of an investigation and/or formal resolution under the Policy, the University will move forward with the hearing and imposition of educational outcomes, if any, in absentia.

C. Alternative Presence Options

In order to facilitate the prompt and equitable resolution of complaints, the University may elect to use telephonic, videoconferencing or other technology to conduct any or all initial and prehearing meetings, interviews and other portions of the investigation, and the hearing itself. In addition, a Complainant or Respondent may request participation by other suitable means that would not require physical proximity to the other party. This can include, but is not limited to, partitioning a hearing room or using technology to facilitate participation. Any proposed alternative must be reviewed in advance to ensure that it is consistent with the goals of a fair and equitable process. The request would be made to the Dean of Students (or designated presiding officer).

D. Participants in Hearing Procedures

The Board is a closed hearing; it is not open to the public. The individuals from the University community who

may appear before the Board are: the Complainant, the Respondent, any individuals serving as advisors, the Investigator, and any individuals who appear as witnesses. Moreover, the Title IX Coordinator may attend any hearing.

E. Hearing Procedures

While there may be disciplinary sanctions and remedies imposed following a formal resolution, a hearing is not intended to be adversarial. It is intended to be educational, corrective, and developmental. The hearing is intended to provide fair and ample opportunity for each side to present his/her/hir version of events and for the Board to determine the facts of the case, make a determination regarding the alleged violations of University policy, and to recommend appropriate sanctions and remedies, if necessary. The hearing is an informal proceeding not comparable to a criminal trial. The University utilizes the resolution process to assess and, as appropriate, take disciplinary action and implement appropriate remedies regarding a violation of University policy or regulation.

The Board will review all available and pertinent information regarding the incident in question. Relevant information supporting the alleged violation(s) may be offered in the form of written statements, the investigation report, documents, items, and/or oral information from the Complainant, the Respondents, Investigator(s) and witnesses.

A hearing will be called to order by the Dean of Students. The hearing will have a Board Chair, who will serve as a non-voting presiding member and as an adviser to the Board.

The Board Chair will explain the hearing process and will provide an opportunity to all parties to ask procedural questions prior to initial statements and the presentation of information.

The Investigator will provide a brief opening statement summarizing the investigation. The opening statement should focus on the areas of agreement and disagreement in order to assist the Board in prioritizing areas of inquiry. The Board, Complainant, and/or Respondent may make brief inquiries of the Investigator at this juncture, and there will be additional opportunity to ask questions of the Investigator after the Board has heard from the Complainant, the Respondent, and any witnesses.

The Complainant will be given an opportunity to present an opening statement. The Complainant is encouraged to and may present his/her/hir own account of the events in a narrative format. The Board may pose questions to the Complainant. The Respondent is encouraged to compile a written list of questions that he/she/zi would like to pose to the Complainant. The list will be provided to the Judicial Board Chair, who will determine the relevance of the questions and ask the Complainant those questions deemed relevant and appropriate. The Respondent will not directly question or address, directly or indirectly, the Complainant.

After the Complainant is finished, the Respondent will be given an opportunity to present an opening statement. The Respondent is encouraged to and may present his/her/hir own account of the events in narrative format. The Board may pose questions to the Respondent. The Complainant is encouraged to compile a written list of questions that he/she/zi would like to pose to the Respondent. The list will be provided to the Judicial Board Chair, who will determine the relevance of the questions and ask the Respondent those questions deemed relevant and appropriate. The Complainant will not directly question or address, directly or indirectly, the Respondent.

Witnesses on behalf of the Complainant and the Respondent may then be proffered. Each witness will be asked to give a narrative account. Each witness will then be questioned by the Board, the Complainant, and the Respondent. Under some circumstances, *e.g.* complaints involving allegations of sexual violence, the Complainant or Respondent may be asked to present a list of written questions to the Judicial Board Chair, who will determine the relevance of the questions and pose any questions deemed relevant.

The Board, Complainant, and Respondent may then question the Investigator. At the conclusion of the presentations by all witnesses and the Investigator, the Complainant and the Respondent will each be given the opportunity to give a brief closing statement.

F. Questioning of Witnesses

It is the responsibility of the Judicial Board to ensure that the information necessary to make an informed decision is presented. Judicial Board members may play an active role in questioning both parties and witnesses involved in the case. Judicial Board members are under no obligation to allow either party to directly question witnesses. As outlined above, in complaints involving allegations of sexual violence, the parties may submit questions to the Board in writing, which may be posed at the discretion of the Board.

Parties and other individuals who offer information at a hearing are expected to respond honestly and to the best of their knowledge. The Judicial Board reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision.

G. Recording of Proceedings

Board proceedings are digitally audio-recorded, but the deliberations of the Judicial Board are not. The digital audio recording is created for two limited purposes only: for reference by the Judicial Board and/or Judicial Board Chair during deliberations and for review by an appeals designee during an appeal. No other recordings of conduct proceedings—including notetaking—are allowed, and no other access to the recordings is permitted. Absent extraordinary circumstances, the recording is destroyed after all appeals have been exhausted, at which point the case is closed.

H. Deliberation

After all of the information has been presented, all parties will be dismissed from the hearing room so that the Judicial Board may deliberate in private. The Judicial Board Chair may remain for deliberations but may not vote for finding(s) of responsibility and/or educational outcome(s) – unless there is a tie. The Judicial Board must reach a decision on responsibility by majority vote and by using the preponderance (“more likely than not”) standard when reviewing findings of fact. Only the decision on responsibility will be shared with the Complainant and the Respondent. The vote itself shall not be shared with the parties.

The findings of the Judicial Board will be reduced to writing in a case opinion. The findings will detail the findings of fact and the basis/rationale for the decision of the Judicial Board, making reference to the evidence that led to the finding.

I. Preponderance of the Evidence

The Board will determine a Respondent’s responsibility by a preponderance of the evidence. This means that the Judicial Board will decide whether it is “more likely than not,” based upon the information provided at the hearing, that the Respondent is responsible for the alleged violation(s).

VII. Sanctions and Remedies

The Complainant and Respondent will each have the opportunity to present a written statement about the impact this incident (as well as conduct proceedings) has had on him/her/hir and/or requested sanctions and remedies. These statements will be reviewed by the Judicial Board only if the Respondent is found responsible.

A Judicial Board that finds the Respondent responsible for a violation of the Policy may recommend appropriate

sanctions and remedies to the Dean of Students.

The Dean of Students is not bound by the recommendations of the Judicial Board and has the final authority to impose appropriate sanctions and remedies. A violation of the Policy may result in suspension or dismissal. Sanctions may range from written warning to permanent separation (i.e., dismissal) from the University. They may also include educational, remedial, and/or disciplinary action as warranted. In general:

- Any student who is determined to have engaged in Non-consensual Sexual Intercourse may receive educational outcomes ranging from suspension to dismissal;
- Any student who is determined to have engaged in Non-consensual Sexual Contact (where no intercourse has occurred) may receive educational outcomes ranging from conduct warning to dismissal.
- Any student who is determined to have engaged in any other prohibited form of conduct may receive educational outcomes ranging from conduct warning to dismissal.

The Board and Dean of Students reserve the right to broaden or lessen any range of recommended sanction and/or remedy in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the Judicial Board, Dean of Students, nor any appeals officer will deviate from the range of recommended outcomes unless compelling justification exists to do so.

Sanctions and remedies may be issued individually, or a combination of outcomes may be imposed. The determination of sanctions and remedies is based upon a number of factors, including but not limited to:

- The severity of the incident;
- The impact on the Complainant;
- Any ongoing risk to either the Complainant or the community posed by Respondent;
- The impact of the violation on the community, its members, or its property;
- Any previous conduct violations; and
- Any mitigating or aggravating circumstances.

VIII. Notice of Outcome

The Dean of Students will communicate the result of the hearing simultaneously to the Respondent and the Complainant in writing, as well as the University's procedures for the Respondent and/or Complainant to appeal the results of the proceeding. Generally, the outcome of the hearing will be final and communicated to the parties within three business days from the date the hearing is concluded.

The Respondent will be informed of any sanctions and remedies if found responsible, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the sanction and/or remedy. The Complainant will be informed of any outcomes that directly relate to him/her/hir. The imposition of sanctions and remedies will take effect immediately and will not be postponed pending the resolution of the appeal.

IX. Appeals

Any party may appeal the determination of responsibility from a Formal Resolution in writing under certain grounds. The appeal must be filed by electronic copy to the Title IX Coordinator within five business days of receiving the written Notice of Outcome.

The Title IX Coordinator will assign the appeal to the University Provost (or designee), who will act as Appellate Officer. The Appellate Officer will impartially evaluate the appeal and will not have previously investigated the case or served on the Judicial Board in the case.

The Complainant and/or Respondent may appeal only the parts of the determination of responsibility directly relating to him or her. The only grounds for appeal are:

- New evidence that was not available at the time of the original adjudication or investigation that could significantly impact the outcome of the original adjudication; and/or,
- A substantive or procedural error(s) occurred at the time of the adjudication that had a material impact on the outcome of the adjudication.

Dissatisfaction with the outcome of the hearing is not grounds for appeal.

The appeal shall consist of a plain, concise, and complete written statement outlining the ground(s) for the appeal and all relevant information to substantiate the basis for the appeal. When an appeal has been submitted, the Title IX Coordinator will notify both parties. The non-appealing party will then be given the opportunity to provide a written response to the appeal. Any response by the opposing party must be submitted within five business days from receipt of the appeal.

In any request for an appeal, the burden of proof lies with the appealing party. An appeal is a deferential review of the Formal Resolution. It is not an opportunity for the Appellate Officer to substitute his/her judgment for that of the adjudicator(s). In reviewing an appeal, the Appellate Officer will consider the merits of the appeal only on the basis of the two grounds for appeal and the supporting information provided in the written request for appeal along with the recording of the original hearing. The Appellate Officer can:

- Affirm the decision of the original adjudication, denying the appeal;
- Grant the appeal and alter the findings, and/or alter the educational outcomes, depending on the basis of the requested appeal. If the Appellate Officer deems that procedures were not followed in a material manner, the Appellate Officer can ask that a new hearing occur before a new Appellate Officer, to be designated by the Title IX Coordinator from inside or outside of the University; or
- Grant the appeal because of new evidence, the Appellate Officer can recommend that the case be returned to the original Judicial Board or Administrative Hearing to assess the weight and effect of the new evidence and render a determination after considering the new evidence, or, in certain circumstances, assigned to an investigator for a new investigation.

The Title IX Coordinator will communicate the Appellate Officer's decision on the appeal, any change to the results that occurs prior to the time that such results become final and when such results become final, simultaneously to both the Complainant and Respondent within ten business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

X. Records

Affirmative findings of responsibility in matters resolved by means of formal resolution are part of a student's conduct record. Such records shall be used in reviewing any further misconduct or developing educational outcomes and shall remain a part of a student's conduct record. Generally, dismissals are permanently noted on a student's transcript. Suspensions and withdrawal pending disciplinary action are removed from a student's transcript after the student successfully completes one semester upon his/her/hir return with no further incident. The conduct files of students who have been suspended or dismissed from the University are permanently maintained in the office of the Dean of Students. Conduct files of students who have not been suspended or dismissed are maintained for a period of five years after the student's graduation.

Student conduct records may be released to University officials on a "need-to-know" basis. Records may be released to persons and agencies external to the University with the student's permission, or in compliance with the *Family Educational Rights and Privacy Act* (FERPA). Records that are lawfully subpoenaed or ordered by a judge may be released without the student's permission. A student's conduct record may also be released if it

is in connection with a health and/or safety emergency. To the extent possible and permissible by law, the University will strive to protect the confidentiality of identifying information about students.

Further questions about student conduct record retention should be directed to the Dean of Students.

APPENDIX B

Grievance Procedures Applicable to Faculty & Staff-Respondents

Any person may make a report against any faculty or staff member for alleged violation(s) of the Policy. Although such a report may be made through a number of reporting sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator, who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence, and address its effects. Per the Procedures, upon receipt of a Complaint alleging a violation of the Policy, the University—through the Title IX Team—will conduct a Title IX/VAWA Intake Assessment to determine whether the conduct reported, if true, would constitute a violation of the Policy.

Once the Intake Assessment confirms that the matter falls within the scope of the Procedures, the Title IX Team makes a determination as to whether Informal Resolution of the Complaint, as described below, is appropriate. If Informal Resolution is not appropriate, an investigation of the Complaint, as described in the Procedures, is conducted followed by Informal or Formal Resolution of the Complaint, as described below.

I. Advisors

In all investigative meetings and interviews, including hearings, the Complainant and Respondent both have the right to be assisted by an advisor of his/her choice. The Assistant Vice President of Human Resources can provide a list of trained advisors who can guide the Complainant(s) and Respondent(s) through the investigative process.

The advisor may accompany a Complainant or Respondent to any meeting with a University employee or investigator, and to the hearing. The role of the advisor is to provide support; the advisor may not speak on behalf of the Complainant or Respondent or otherwise directly participate in the investigative process or in the hearing.

Absent extenuating circumstances, witnesses and others involved in an investigation or hearing are not entitled to have an advisor.

II. Types of Resolution Applicable to Complaints

1. Informal Resolution

Informal Resolution is a remedies-based approach to the resolution of complaints. If the Team (in consultation with the Assistant Vice President of Human Resources) determines that Informal Resolution may be appropriate following the Intake Assessment, the University will take immediate and corrective action.

Examples of potential remedies are provided in the section of the Policy titled Interim Measures, Remedies, and Accommodations. Other potential remedies include targeted or broad-based educational programming or training.

In cases that do not involve Sexual Violence, mediation and other restorative justice options may be an appropriate form of informal resolution. Mediation is never appropriate in a case involving Sexual Violence, nor in a Dating Violence, Domestic Violence or Stalking case with a sexually violent component to it.

The decision to pursue Informal Resolution may be made before, during or after a full factual investigation by the University.

2. Formal Resolution

A Complainant may file a formal complaint alleging a violation of the Policy. Formal Resolution is an administrative, sanctions-based process that may involve discipline and remedial action. Formal Resolution of a report under the Policy may occur through the use of an Administrative Review.

III. Next Steps After Investigation

At the conclusion of the investigation, the Assistant Vice President of Human Resources will review the investigation report. If, based on the facts gathered in the investigation report, no reasonable person could determine that there was a Policy violation, the Assistant Vice President of Human Resources shall make this determination and advise both parties in writing.

If the Assistant Vice President of Human Resources determines that a violation of Policy could plausibly have occurred based on the investigation report, he or she shall then determine whether Informal Resolution is appropriate given the nature of the conduct discovered. If so, the Assistant Vice President of Human Resources shall offer Informal Resolution to both parties, and if both parties agree, the matter shall be resolved through Informal Resolution.

If the Assistant Vice President of Human Resources determines that a violation of Policy could plausibly have occurred and Informal Resolution is not appropriate, the matter shall move forward toward Formal Resolution. If the Complainant does not wish to participate in Formal Resolution, the University may, in its discretion, step into the shoes of the Complainant and proceed as the Complainant for purposes of Formal Resolution.

IV. Administrative Hearing

When formal resolution is deemed necessary based on the review of the investigation report, the Assistant Vice President of Human Resources will conduct an Administrative Hearing where he or she will meet with both parties separately. The Notice of Administrative Hearing will provide each party with a statement of the Policy violation(s) that are alleged to have taken place and a summary of the facts underlying the allegations. In addition, the Notice provides the parties with the date, time, and place of the hearing.

If the Complainant and/or Respondent has elected to have advisors throughout the hearing process, the advisor is encouraged to accompany the Complainant/ Respondent to the administrative hearing. At the time of the hearing, the parties will each have the opportunity to present relevant information to the Assistant Vice President of Human Resources who will determine responsibility and a sanction, if appropriate.

In reaching a decision as to whether the Policy has been violated, the Assistant Vice President of Human Resources will reach a determination by a preponderance of the evidence. Under the preponderance of the evidence standard, the Assistant Vice President of Human Resources will determine whether the conduct was “more likely than not” to have occurred as alleged. In reaching a determination of responsibility, the Assistant Vice President of Human Resources will use the investigative report as the primary evidence

After the Assistant Vice President of Human Resources renders a decision, the Assistant Vice President of Human Resources will issue an appropriate sanction, if applicable. The Assistant Vice President of Human Resources in consultation with the Title IX Coordinator, will also implement any appropriate and reasonable remedial measures as outlined in the section of the Policy titled Interim Measures, Remedies, and Accommodations section. Both a Complainant and Respondent may appeal the determination of the Assistant Vice President of Human Resources as provided in the Appeal section below.

A. Pre-Hearing Review of Documents

The Complainant and the Respondent will each have the opportunity to review the investigation report, redacted as appropriate, at least ten business days prior to the hearing.

B. Relevance of Evidence

The Assistant Vice President of Human Resources, in conjunction with the Title IX Coordinator, has sole discretion to determine whether any proffered information or witness is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Assistant Vice President of Human Resources and Title IX Coordinator may reject or redact information that is irrelevant, more prejudicial than probative, or immaterial. The Assistant Vice President of Human Resources and Title IX Coordinator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. Moreover, cumulative “character witness” testimony is generally not relevant in these matters.

1. Prior Sexual History and/or Pattern Evidence

Advance permission must be sought by either party seeking to bring forth information concerning the other party’s prior sexual history, pattern evidence, evidence of similar conduct, or a prior finding of responsibility as to Sexual Misconduct or dishonesty related to accusations of Sexual Misconduct. Such requests must be submitted during the investigative phase, unless the information was not previously known to the parties. The Assistant Vice President of Human Resources and Title IX Coordinator will judge the admissibility of such information.

C. Request to Reschedule Meeting

Either party can request to have a hearing rescheduled for good cause. Absent extenuating circumstances, requests to reschedule must be submitted to the Assistant Vice President of Human Resources at least five business days prior to the hearing. The Assistant Vice President of Human Resources shall be the sole authority for determining whether good cause exists to reschedule the hearing.

D. Consolidation of Hearings

The Assistant Vice President of Human Resources in his/her discretion, may consolidate multiple reports against a Respondent into one review if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct, which would regularly have been heard under the Student Handbook, the Faculty Handbook, the *Non-Discrimination/Non-Harassment Policy*, or the *Affirmative Action and Equal Employment Opportunity Policy*.

E. Safeguarding of Privacy

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. No copies of any materials distributed at the hearing are to be made or shared with any third parties. All materials provided at the hearing must be returned to the Assistant Vice President for Human Resources at the conclusion of the hearing. Any breach of this duty is subject to further disciplinary action by the University.

V. Hearing process

A. Identification of Witnesses

The Complainant, Respondent, and Assistant Vice President of Human Resources all have the right to call witnesses at the hearing. Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character.

In general, neither party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the University's investigation. If either party wishes to call witnesses, whether or not they were previously interviewed as part of the University's investigation, the following must be submitted no later than ten business days before the hearing to the Assistant Vice President of Human Resources via e-mail:

- The names of any witnesses that the party intends to call;
- A written statement and/or description of what each witness observed, if not already provided during investigation;
- A summary of why the witness's presence is relevant to making a decision about responsibility at the hearing; and
- The reason why the witness was not interviewed by the investigator, if applicable and known.

The Title IX Coordinator and/or Assistant Vice President of Human Resources has sole discretion to determine if the proffered witness(es) have relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Title IX Coordinator may also require the investigator to interview the newly proffered witness(es). The University will make every attempt to complete any further investigation in an expedited manner. However, if new information or requests for witnesses are presented, further investigation may cause delay in the hearing process.

If witnesses are approved to be present, the Respondent and Complainant will be provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than five business days before the hearing.

B. Attendance at Hearing

If a party does not attend a hearing, for any non-emergency or un-compelling reason, the hearing may be held in his/her/hir absence at the discretion of the Assistant Vice President of Human Resources. If a student chooses to withdraw or take a leave from the University prior to the conclusion of an investigation and/or formal resolution under the Policy, the University will move forward with the hearing and imposition of educational outcomes, if any, in absentia.

C. Alternative Presence Options

In order to facilitate the prompt and equitable resolution of complaints, the University may elect to use telephonic, videoconferencing or other technology to conduct any or all initial and prehearing meetings, interviews and other portions of the investigation, and the hearing itself. In addition, a Complainant or Respondent may request participation by other suitable means that would not require physical proximity to the other party. This can include, but is not limited to, using technology to facilitate participation. Any proposed alternative must be reviewed in advance to ensure that it is consistent with the goals of a fair and equitable process. The request would be made to the Assistant Vice President of Human Resources (or designated presiding officer).

D. Participants in Hearing Procedures

The Administrative hearing is a closed hearing; it is not open to the public. The individuals from the University community who may appear before the Assistant Vice President of Human Resources are: the Complainant, the Respondent, any individuals serving as advisors, the Investigator, and any individuals who appear as witnesses. Moreover, the Title IX Coordinator may attend any hearing.

E. Hearing Procedures

While there may be disciplinary sanctions and remedies imposed following a formal resolution, a hearing is not intended to be adversarial. The hearing is intended to provide fair and ample opportunity for each side to present his/her/hir version of events and for the Assistant Vice President of Human Resources to determine the facts of the case, make a determination regarding the alleged violations of University policy, and to recommend appropriate sanctions and remedies, if necessary. The hearing is an informal proceeding not comparable to a criminal trial. The University utilizes the resolution process to assess and, as appropriate, take disciplinary action and implement appropriate remedies regarding a violation of University policy or regulation.

The Assistant Vice President of Human Resources will review all available and pertinent information regarding the incident in question. Relevant information supporting the alleged violation(s) may be offered in the form of written statements, the investigation report, documents, items, and/or oral information from the Complainant, the Respondents, Investigator(s) and witnesses.

The Assistant Vice President of Human Resources will explain the hearing process and will provide an opportunity to all parties to ask procedural questions prior to initial statements and the presentation of information.

The Investigator will be available to both the Complainant and Respondent and either may make brief inquiries of the Investigator, and/or be given an opportunity to ask questions of the Investigator after the Assistant Vice President of Human Resources has heard from the Complainant, the Respondent, and any witnesses.

The Complainant and Respondent will both be given an opportunity to present an opening statement at the hearing. The Complainant and Respondent are encouraged to and may present his/her/hir own account of the events in a narrative format. The Assistant Vice President of Human Resources may pose questions to the Complainant and Respondent. The Complainant and Respondent are encouraged to compile a written list of questions that he/she/zi would like to pose to the other party. The list will be provided to the Assistant Vice President of Human Resources, who will determine the relevance of the questions and ask the respective parties those questions deemed relevant and appropriate. Neither the Complainant nor Respondent will directly question or address, directly or indirectly, each other.

Witnesses on behalf of the Complainant and the Respondent may then be proffered. Each witness will be asked to give a narrative account. Each witness will then be questioned by the Assistant Vice President of Human Resources. Under some circumstances, *e.g.* complaints involving allegations of sexual violence, the Complainant or Respondent may be asked to present a list of written questions to the Assistant Vice President of Human Resources, who will determine the relevance of the questions and pose any questions deemed relevant.

The Assistant Vice President of Human Resources, Complainant, and Respondent may then question the Investigator. At the conclusion of the presentations by all witnesses and the Investigator, the Complainant and the Respondent will each be given the opportunity to give a brief closing statement.

F. Questioning of Witnesses

It is the responsibility of the Assistant Vice President of Human Resources to ensure that the information necessary to make an informed decision is presented. The Assistant Vice President of Human Resources may play an active role in questioning both parties and witnesses involved in the case. The Assistant Vice President of Human Resources is under no obligation to allow either party to directly question witnesses. As outlined above, in complaints involving allegations of sexual violence, the parties may submit questions to the Assistant Vice President of Human Resources in writing, which may be posed at the discretion of the Assistant Vice President of Human Resources.

Parties and other individuals who offer information at a hearing are expected to respond honestly and to the best of their knowledge. The Assistant Vice President of Human Resources reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision.

G. Recording of Proceedings

No recordings of proceedings—including notetaking—are allowed, and no other access to the recordings is permitted. Absent extraordinary circumstances, the recording is destroyed after all appeals have been exhausted, at which point the case is closed.

H. Preponderance of the Evidence

The Assistant Vice President of Human Resources will determine a Respondent's responsibility by a preponderance of the evidence. This means that the Assistant Vice President of Human Resources will decide whether it is "more likely than not," based upon the information provided at the hearing, that the Respondent is responsible for the alleged violation(s).

VI. Findings, Sanctions and Remedies

The findings of the Assistant Vice President of Human Resources will be reduced to writing in a case opinion. The findings will detail the findings of fact and the basis/rationale for the decision of the Assistant Vice President of Human Resources, making reference to the evidence that led to the finding.

A violation of the Policy may result in suspension or termination. Sanctions may range from written warning to permanent separation (i.e., dismissal) from the University.

Sanctions and remedies may be issued individually, or a combination of outcomes may be imposed. The determination of sanctions and remedies is based upon a number of factors, including but not limited to:

- The severity of the incident;
- The impact on the Complainant;
- Any ongoing risk to either the Complainant or the community posed by Respondent;
- The impact of the violation on the community, its members, or its property;
- Any previous conduct violations; and
- Any mitigating or aggravating circumstances.

VII. Notice of Outcome

The Assistant Vice President of Human Resources will communicate the result of the hearing simultaneously to the Respondent and the Complainant in writing, as well as the University's procedures for the Respondent and/or Complainant to appeal the results of the proceeding. Generally, the outcome of the hearing will be final and

communicated to the parties within three business days from the date the hearing is concluded.

The Respondent will be informed of any sanctions and remedies if found responsible, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the sanction and/or remedy. The Complainant will be informed of any outcomes that directly relate to him/her/hir. The imposition of sanctions and remedies will take effect immediately and will not be postponed pending the resolution of the appeal.

VIII. Appeals

Any party may appeal the determination of responsibility from a Formal Resolution in writing under certain grounds. The appeal must be filed by electronic copy to the Title IX Coordinator within five business days of receiving the written Notice of Outcome.

The Title IX Coordinator will assign the appeal to the University Provost (or designee), who will act as Appellate Officer. The Appellate Officer will impartially evaluate the appeal and will not have previously investigated the case.

The Complainant and/or Respondent may appeal only the parts of the determination of responsibility directly relating to him or her. The only grounds for appeal are:

- New evidence that was not available at the time of the original adjudication or investigation that could significantly impact the outcome of the original adjudication; and/or,
- A substantive or procedural error(s) occurred at the time of the adjudication that had a material impact on the outcome of the adjudication.

Dissatisfaction with the outcome of the hearing is not grounds for appeal.

The appeal shall consist of a plain, concise, and complete written statement outlining the ground(s) for the appeal and all relevant information to substantiate the basis for the appeal. When an appeal has been submitted, the Title IX Coordinator will notify both parties. The non-appealing party will then be given the opportunity to provide a written response to the appeal. Any response by the opposing party must be submitted within five business days from receipt of the appeal.

In any request for an appeal, the burden of proof lies with the appealing party. An appeal is a deferential review of the Formal Resolution. It is not an opportunity for the Appellate Officer to substitute his/her judgment for that of the adjudicator(s). In reviewing an appeal, the Appellate Officer will consider the merits of the appeal only on the basis of the two grounds for appeal and the supporting information provided in the written request for appeal along with the recording of the original hearing. The Appellate Officer can:

- Affirm the decision of the original adjudication, denying the appeal;
- Grant the appeal and alter the finding depending on the basis of the requested appeal. If the Appellate Officer deems that procedures were not followed in a material manner, the Appellate Officer can ask that a new hearing occur before a new Appellate Officer, to be designated by the Title IX Coordinator from inside or outside of the University; or
- Grant the appeal because of new evidence, the Appellate Officer can recommend that the case be returned to the Assistant Vice President of Human Resources to assess the weight and effect of the new evidence and render a determination after considering the new evidence, or, in certain circumstances, assigned to an investigator for a new investigation.

The Title IX Coordinator will communicate the Appellate Officer's decision on the appeal, any change to the results that occurs prior to the time that such results become final and when such results become final, simultaneously to both the Complainant and Respondent within ten business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.