



PROCEDURES FOR RESOLUTION OF COMPLAINTS UNDER THE NON-DISCRIMINATION AND NON-HARASSMENT POLICY AND THE POLICY PROHIBITING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

Related Policy	Non-Discrimination and Non-Harassment Policy and Policy Prohibiting Sexual Harassment and Sexual Misconduct
Responsible Office	Provost
Initial Date	November 4, 2016
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These Procedures for Resolution of Complaints under the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct (the “Procedures”) apply to all allegations of Harassment, Discrimination, or Bias Incidents, as defined by the Non-Discrimination and Non-Harassment Policy, and to allegations of Sexual Harassment and Sexual Misconduct, as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct, when such allegations involve students and employees of the University. All capitalized terms herein have the same meaning as in the relevant Policy.

If alleged Sexual Harassment reported via a Formal Complaint occurred within Arcadia’s Educational Program or Activity, and occurred within the United States, Arcadia will use the hearing procedures prescribed by the U.S. Department of Education’s Office of Civil Rights, which are provided in **Appendix A**. Arcadia will only use these procedures if the Complainant is participating or attempting to participate in Arcadia's Education Program or Activity.

If the alleged conduct falls outside of the definition of Sexual Harassment, but would meet the definition of Sexual Misconduct, or if Sexual Harassment occurs outside of Arcadia’s Education Program or Activity (for example, in an off-campus building) or occurs outside of the United States, Arcadia will use the hearing procedures provided in **Appendix B** (for student Respondents) or **Appendix C** (for employee Respondents). Alleged conduct that falls within the scope of the Non-Discrimination and Non- Harassment Policy will also be addressed using the hearing procedures in **Appendix B** (for student Respondents) or **Appendix C** (for employee Respondents).

Please see The College of Global Studies (“TCGS”) Addendum for Procedures at the end of this document regarding the hearing procedures for TCGS participants.

All reports of Retaliation are taken seriously and should be reported to the Office of Equity and Civil Rights (hereinafter Office of Equity and Civil Rights will be referred to as OECR). Reports of Retaliation will be promptly investigated and, as appropriate, adjudicated through the process detailed in **Appendix B** for (student Respondents) and the process detailed in **Appendix C** for (employee Respondents).

¹ These Procedures were posted as interim Procedures on August 14, 2020. Minor edits were made to the original version of the interim Procedures on October 26, 2020. These Procedures became final on August 25, 2021, and included some revisions from the interim Procedures. For questions about iterations of these Procedures and its applicability, email the Director of the Office of Equity and Civil Rights.

I. INITIAL ASSESSMENT AND INTAKE OF REPORTS

Upon receiving notice of an alleged violation of the Non-Discrimination and Non-Harassment Policy or the Policy Prohibiting Sexual Harassment and Sexual Misconduct, the Director of OECR/Title IX Coordinator, or their designee (wherever the Director of OECR/Title IX Coordinator is referenced herein, such reference shall be construed to include that individual's designee) promptly reviews the report to determine next steps.

If the allegations reported, if true, *would not* constitute Sexual Harassment, other Sexual Misconduct, Discrimination, Harassment, a Bias Incident, or Retaliation within the scope of the Policies, the Director of OECR/Title IX Coordinator will, as appropriate: (1) address the report under another set of procedures; (2) refer the matter to the Student Affairs Office, the Office of Human Resources, or other appropriate University office or administrator; or (3) take no further action, if the reported conduct would not constitute a violation of any University policy. In these instances, the Director of OECR/Title IX Coordinator will notify the Complainant of the referral or other action.

After receiving a report of prohibited conduct, including conduct that, if true, *would* constitute a violation of the Non-Discrimination and Non-Harassment Policy or the Sexual Harassment and Sexual Misconduct Policy, the Director of OECR/Title IX Coordinator will promptly contact the Complainant and:

- discuss the availability of supportive measures;
- explain that supportive measures are available with or without the filing of a complaint or Formal Complaint;
- inform the Complainant of the process for filing a complaint or Formal Complaint; and
- inform the Complainant that even if they decide not to sign a Complaint or Formal Complaint, the Director of OECR/Title IX Coordinator may do so on the Complainant's behalf.

The Director of OECR/Title IX Coordinator will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- Support and assistance available through University resources, including the Complainant's option to seek supportive measures regardless of whether they choose to participate in a University or law enforcement investigation;
- The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- The process for filing a Formal Complaint of Sexual Harassment or Sexual Misconduct, if appropriate, or the process for filing a complaint for other forms of prohibited conduct including but not limited to Discrimination, Harassment, Bias Incidents or Retaliation;
- The University's procedural options including investigative and informal resolution;
- The Complainant's right to an Advisor of the Complainant's choosing;
- The University's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and any reporting Parties, along with a statement that the University will take prompt action when Retaliation is reported (and how to report); and
- The opportunity to meet with the Director of OECR/Title IX Coordinator in person to discuss the Complainant's resources, rights, and options.

For information regarding resources for TCGS participants, please see the TCGS Addendum in the [Policy Prohibiting Sexual Harassment and Sexual Misconduct](#).

A. Complaint Process

The following two sections detail the two complaint processes available to Complainants. The first process, the **Formal Complaint**, is used for allegations of Sexual Harassment, Sexual Misconduct, or related Retaliation. This process requires that a Complainant sign the University's Formal Complaint form. The second process is one for filing a **Complaint**, which is available only for alleged violations of the Non-Discrimination and Non-Harassment Policy, and does *not* require one to sign a form.

a. Formal Complaint of Sexual Harassment or Sexual Misconduct

Complainants may choose to make a Formal Complaint against a Respondent to request initiation of the University's Formal Grievance Process to address alleged Sexual Harassment, Sexual Misconduct, or related Retaliation. Formal Complaints are required for cases of Sexual Harassment and Sexual Misconduct as defined in the [Policy Prohibiting Sexual Misconduct and Sexual Harassment](#). Formal Complaints are also required for alleged conduct that falls under both the Policy Prohibiting Sexual Misconduct and Sexual Harassment and the Non-Discrimination and Non-Harassment Policy.

In order to make a Formal Complaint for Sexual Harassment, Sexual Misconduct, or related Retaliation, the Complainant should contact the Director of OECR/Title IX Coordinator and sign the University's Formal Complaint form. This may be done in person or by email by contacting the Director of OECR/Title IX Coordinator. Even if a Complainant does not wish to make Formal Complaint for Sexual Harassment, the Director of OECR/Title IX Coordinator may, in their discretion, make a Formal Complaint by signing the Formal Complaint. When the Director of OECR/Title IX Coordinator signs a Formal Complaint, the Director of OECR/Title IX Coordinator is not the Complainant or otherwise a Party.

When the Director of OECR/Title IX Coordinator receives a Formal Complaint alleging conduct, which, if true, would meet the definition for Sexual Harassment, the Director of OECR/Title IX Coordinator will evaluate the allegations in the Formal Complaint to determine whether the allegations in the Formal Complaint satisfy the following conditions:

- a. The conduct is alleged to have been perpetrated against a person in the United States;
- b. The conduct is alleged to have taken place within the University's Education Programs and Activities; and
- c. At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or attempting to participate in the University's Education Programs or Activities.

If the Director of OECR/Title IX Coordinator determines that all of the above conditions are satisfied, the University will address the Formal Complaint under the Sexual Harassment Grievance Procedures (**Appendix A**).

If the Director of OECR/Title IX Coordinator determines that the allegations in the Formal Complaint do not meet the definition for Sexual Harassment or less than all of the above conditions are satisfied, the University will address the Formal Complaint of Sexual Harassment under either *Grievance Procedures for Student Respondents for Conduct that falls under the Non-Discrimination and Non-Harassment Policy, for Conduct that constitutes Sexual Misconduct, and for Conduct that*

constitutes Sexual Harassment (the “Student Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures”) in **Appendix B** or *Grievance Procedures for Employee Respondents for Conduct that falls under the Non-Discrimination and Non-Harassment Policy, for Conduct that constitutes Sexual Misconduct, and for Conduct that constitutes Sexual Harassment* (the “Employee Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures”), in **Appendix C**, as appropriate.

If the University investigates a matter as Sexual Harassment under the Sexual Harassment Grievance Procedures based on the allegations in the Formal Complaint, but, during the course of the investigation, the Director of OECR/Title IX Coordinator determines that all of the above conditions are no longer satisfied, the University will dismiss the Formal Complaint for Title IX purposes and instead pursue the matter under Student Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures or Employee Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures (**Appendix B or C**), as appropriate and applicable, or will dismiss the Formal Complaint in its entirety. Likewise, if during the course of investigating or resolving a Formal Complaint of Sexual Misconduct the Director of OECR/Title IX Coordinator determines that the alleged conduct constitutes Sexual Harassment and the above conditions are met, the University will convert its investigation into one under the Sexual Harassment Grievance Procedures (**Appendix A**).

As described in the Sexual Harassment Grievance Procedures, if the Director of OECR/Title IX Coordinator determines at any time that a Formal Complaint of Sexual Harassment will not be adjudicated under the Sexual Harassment Grievance Procedures, either Party may appeal that decision.

In their discretion and in consultation with Human Resources and/or the Student Affairs Office, as appropriate, the Director of OECR/Title IX Coordinator may consolidate multiple Formal Complaints or reports of other prohibited conduct for Resolution under the Sexual Harassment Grievance Procedures. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Sexual Harassment or where the above conditions are not met with respect to some of the alleged conduct). If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each Party will have access to all of the information being considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Formal Complaints is not subject to appeal.

Please see the TCGS Addendum for Procedures at the end of this document regarding the hearing procedures for TCGS participants.

b. Complaint of Discrimination, Harassment, a Bias Incident, or related Retaliation

For alleged violations of the Non-Discrimination and Non-Harassment Policy, a Formal Complaint is not required, meaning the Complainant may make a written or verbal complaint without signing the University’s Formal Complaint form. However, if the alleged conduct includes behavior that would fall under the definitions in the Policy Prohibiting Sexual Harassment and Sexual Misconduct, a Formal Complaint is required.

In order to make a Complaint of Discrimination, Harassment, a Bias Incident, or related Retaliation,

the Complainant should contact the Director of OECR/Title IX Coordinator and report the alleged behavior. This may be done in person, by phone, or by email by contacting the Director of OECR/Title IX Coordinator.

After making a Complaint of Discrimination, Harassment, a Bias Incident, or related Retaliation, the Complainant should then meet with the Director of OECR/Title IX Coordinator, either in person or virtually. In the meeting with the Director of OECR/Title IX Coordinator, the Complainant will be asked to describe the incident and the Director of OECR/Title IX Coordinator will ask questions to further understand the incident and to determine which policy(s) might be implicated. The Director of OECR/Title IX Coordinator will ask the Complainant if they wish to request a Formal Grievance Process. **A signed Formal Complaint form is not necessary in order to proceed with the Formal Grievance Process.**

Where a Complainant does not wish to make a Complaint of Discrimination, Harassment or a Bias Incident, the Director of OECR/Title IX Coordinator may, in their discretion, nonetheless sign a Complaint. When the Director of OECR/Title IX Coordinator signs a Complaint, the Director of OECR/Title IX Coordinator is not the Complainant or otherwise a Party.

After receipt of a Complaint (or where the Director of OECR/Title IX Coordinator files a Complaint without a participating Complainant), the Director of OECR/Title IX Coordinator will then refer the case to either the Student Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures in **Appendix B** or the Employee Sexual Misconduct and Non-Discrimination and Non-Harassment Procedures in **Appendix C**, as appropriate.

B. Actions Following Filing of a Formal Complaint/Complaint

If a Complainant makes, or the Director of OECR/Title IX Coordinator signs, a Complaint or a Formal Complaint within the scope of these Procedures, the Director of OECR/Title IX Coordinator will send both Parties a written Notice of Allegations that contains the following:

- Notice of the allegations potentially constituting violations of the Non-Discrimination and Non-Harassment Policy, Sexual Harassment or other Sexual Misconduct (“Prohibited Conduct”), providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the Parties, if known; (2) the conduct allegedly constituting Prohibited Conduct; and (3) the date and location of the alleged incident;
- A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct and a determination regarding responsibility is made at the conclusion of the Formal Grievance Process;
- Notice that each Party may have an Advisor of their choice who may be, but is not required to be, an attorney, and who may inspect and review evidence;
- Information regarding the availability of support and assistance through University resources and the opportunity to meet with the Director of OECR/Title IX Coordinator (or their designee) in person to discuss resources, rights, and options;

- Notice of the University’s prohibition of Retaliation against the Complainant, the Respondent, and witnesses; that the University will respond promptly when Retaliation is reported; and how to report acts of Retaliation; and
- Notice that the University prohibits knowingly making false statements and knowingly submitting false information during the Formal Grievance Process.

If, during the course of an investigation, the Director of OECR/Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written Notice, the Director of OECR/Title IX Coordinator will provide an amended Notice of Allegations to the Parties.

After a Formal Complaint/Complaint is filed or signed by the Director of OECR/Title IX Coordinator, the matter will proceed under the appropriate Formal Grievance Process (*See* Appendix A, Appendix B, Appendix C).

Complainants should make reports of Discrimination, Harassment, Bias Incidents, Sexual Harassment, Sexual Misconduct, and/or Retaliation to the Director of OECR/Title IX Coordinator. Arcadia’s **Director of OECR/Title IX Coordinator** can be reached at:

Director of OECR/Title IX Coordinator
oecr@arcadia.edu

More information about reporting can be found in both the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

C. Emergency Removal

Upon receipt of a report or other Notice of an alleged violation of either the Non-Discrimination and Non-Harassment Policy or Policy Prohibiting Sexual Harassment and Sexual Misconduct, the Director of OECR/Title IX Coordinator will assess whether the reported misconduct poses a risk of harm to individuals or the campus community. If so, the Director of OECR/Title IX Coordinator will take the necessary steps to address those risks.

The University can act to remove a Respondent entirely or partially from its Education Program or Activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Director of OECR/Title IX Coordinator in conjunction with the Dean of Students, or their designee (wherever the Dean of Students is referenced herein, such reference shall be construed to include that individual’s designee), if the Respondent is a student, or Vice President of Human Resources, or their designee (wherever the Vice President of Human Resources is referenced herein, such reference shall be construed to include that individual’s designee), if the Respondent is an employee, in consultation with the Director of Public Safety and other individuals at the Director of OECR/Title IX Coordinator’s discretion. The decision will be conveyed by the Dean of Students for student Respondents and Vice President of Human Resources for employee Respondents.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Director of OECR/Title IX Coordinator (either with or without one or more of the individuals listed in the immediately preceding paragraphs) after emergency removal is implemented, to show cause why the removal should not have been implemented or should be modified. A Respondent may be accompanied by an Advisor of their choice for this meeting, and will be given access to a written summary of the basis for the emergency or interim removal prior to the meeting to allow for adequate preparation.

This meeting is not a hearing on the merits of the underlying allegation(s) of Policy violations, but is rather an administrative process intended to determine solely whether the interim removal is appropriate. If the Respondent does not request the meeting within twenty-four (24) hours of the notice, objections will be deemed waived. If a Respondent requests a meeting within twenty-four (24) hours of the notice, the University will ensure that it occurs promptly.

In the event that restrictions on the participation of a student athlete are put in place on an interim basis, the imposition of those restrictions is also subject to this same process of the requested review. There is no further appeal process for emergency or interim removal decisions.

Violation of an emergency removal will be independent grounds for discipline, which may result in Sanctions up to and including expulsion or termination.

Please see the TCGS Addendum for Procedures at the end of this document regarding the emergency removal procedures for TCGS participants.

D. Dismissal (Mandatory and Discretionary) of Formal Complaints

The University must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute *Sexual Harassment* as defined in the Policy Prohibiting Sexual Harassment and Sexual Misconduct (Section XII(A)), even if proved; and/or
- 2) The conduct did not occur in an Educational Program or Activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in Arcadia's Education Program or Activity.

The University may dismiss a Formal Complaint or any allegations contained therein if, at any time during the Formal Grievance Process:

- 1) A Complainant notifies the Director of OECR/Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations contained therein.

The University will promptly send written notice of any dismissal and the rationale for the dismissal simultaneously to the Parties.

This dismissal decision is appealable by any Party under the procedures for appeal in Appendix A, Section (II)(1). The decision not to dismiss is also appealable by any Party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45. Dismissing a Formal Complaint filed under Title IX that is dismissed does not preclude it from being addressed under Appendices B or C.

E. Cross Complaints

The University is obligated to ensure that the Formal Grievance Process is not abused for retaliatory purposes. The University permits the filing of cross Complaints using the same initial assessment process described above. Cross Complaints by the Respondent may be made in good faith, but are, on occasion, also made for purposes of Retaliation. Cross Complaints made with retaliatory intent will not be permitted.

Cross Complaints determined to have been reported in good faith will be addressed using these Procedures. Investigation of such claims may take place after resolution of the underlying initial allegation(s), in which case a delay may occur.

Cross Complaints may also be resolved through the same investigation as the underlying allegation(s), at the discretion of the Director of OECR/Title IX Coordinator. When cross Complaints are not made in good faith, they will be considered retaliatory and may constitute a violation of the Policies subject to these Procedures.

F. Cases without a Complainant

In situations where there is no specific individual or group that is the target of a Respondent's alleged actions, but the Respondent's alleged conduct would otherwise constitute a violation of the Non-Discrimination and Non-Harassment Policy or Policy Prohibiting Sexual Harassment and Sexual Misconduct, the conduct or incident at issue may still be investigated and adjudicated using the processes provided in Appendix B (for student Respondents) or Appendix C (for employee Respondents). The University reserves the right to step into the role of the Complainant in these cases.

G. Right to an Advisor

The Parties may each have an Advisor² of their choice present with them for all meetings, interviews and hearings within the Formal Grievance Process, if they so choose. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is available and willing to serve in the role.²

While a Party is permitted to choose an Advisor who is also a witness, that Party should anticipate that issues of potential bias and/or conflict of interest will be explored by the Hearing Officer(s).

Parties also have the right to choose not to have an Advisor in the initial stages of the Formal Grievance

² "Available" means the Party cannot insist on an Advisor who simply does not have inclination, time, or availability to serve in the role.

Process, prior to a hearing.

H. Who Can Serve as an Advisor

The Parties may choose Advisors from inside or outside of the Arcadia community.

The Director of OECR/Title IX Coordinator will offer to assign an Advisor for any Party if the Party so chooses. If the Parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with Arcadia's Formal Grievance Process.

If the Parties choose an Advisor from outside the pool of those identified by the University, the Advisor will likely not have been trained by Arcadia and may not be familiar with Arcadia's policies and procedures. That said, Advisors may request to meet with a member from the Title IX Team in advance of these interviews or meetings. This pre-meeting is intended to allow Advisors to ask questions to clarify and understand their role and Arcadia's policies and procedures.

If one Party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

A Party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The Parties are expected to provide timely notice to the Director of OECR/Title IX Coordinator if they change Advisors at any time. Parties are expected to inform the Director of OECR/Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before any hearing.

I. Behavioral Expectations of Advisors

All Advisors are subject to the same behavioral expectations, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The Advisor may not make a presentation on behalf of or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Hearing Officer(s). (This does not apply to hearings under Appendix A where cross-examination occurs. Behavioral expectations still apply.)

The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Formal Grievance Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for reasonable breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by these Procedures will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended or other appropriate measures implemented. Subsequently, the Director of OECR/Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

In the event of disruptive behavior in the hearing, the Advisor will be dismissed from the hearing room, at which time the hearing will stop, or other appropriate measures will be implemented.

The University generally expects an Advisor to adjust their schedule to allow them to attend Arcadia meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

J. Sharing Information with the Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Arcadia. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Arcadia's privacy expectations. This section does not preclude a Party from discussing the allegations with other individuals.

II. RESOLUTION OF FORMAL COMPLAINTS/COMPLAINTS

The Office of Equity and Civil Rights oversees the resolution of Formal Complaints of Sexual Harassment and Sexual Misconduct and Complaints of Discrimination, Harassment, Bias Incidents, and related Retaliation. The University uses both informal and formal procedures to resolve Formal Complaints and Complaints.

A. Informal Resolution of Formal Complaints/Complaints

When appropriate, and where the Complainant and Respondent agree to participate, the University encourages Formal Complaints/Complaints to be resolved through informal resolution. If the Director of OECR / Title IX Coordinator determines that informal resolution is appropriate, the Director of OECR/Title IX Coordinator will discuss informal resolution options with the Complainant. If the Complainant is interested in pursuing informal resolution, the Director of OECR/Title IX Coordinator will discuss options with the Respondent. The Complainant and Respondent must both agree, in writing, before an informal resolution process will commence.

The University will not compel a Complainant or Respondent to engage in informal resolution, or have direct contact with one another for these purposes. Participation in informal resolution is completely voluntary, and a Complainant or Respondent can request to end the informal resolution process and pursue a Formal Grievance Process at any time before resolution of the Formal Complaint/Complaint is finalized, including if informal resolution is unsuccessful at resolving the Formal Complaint/Complaint.

Informal resolution is an educational and remedies-based approach to the resolution of Formal Complaints/Complaints. This could consist of an individual who feels they were mistreated communicating directly to the person(s) they deem accountable for the mistreatment that their conduct was unwelcome and asking that it cease. The decision to pursue informal resolution may be made before, during, or after a full factual investigation by the University. Informal resolution is not available in cases where a student Complainant is alleging Sexual Harassment by an employee Respondent.

Informal resolution may include restorative justice principles or mediated conversations that are designed to allow a Respondent to accept responsibility for misconduct and acknowledge harm to the Complainant

or others.

Mediated conversations may be guided by personnel from Student Affairs, Human Resources, the Provost's Office, or an individual external to the University. The University supports conflict resolution wherever it can assist in supporting a welcoming, inclusive, and respectful environment. Personnel are also available to assist with mediated conversations to address conduct that does not necessarily constitute a violation of a policy, but which nonetheless diminishes a person's ability to experience the University as a welcoming, inclusive, and respectful environment. For example, communities are increasingly aware of the prevalence of Microaggressions. Microaggressions are harmful to the dignity of all members of the University community. It is possible that some such behaviors may not on their own be so severe, pervasive, or objectively offensive as to constitute a Policy violation, putting them outside these Procedures, but those affected may still wish to engage in efforts to use conflict resolution principles to address the conduct at issue and prevent its recurrence.

Informal resolution may also include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; facilitating a meeting with the Respondent, with or without the Complainant present; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. Depending on the type of remedy at issue, it may be possible for a Complainant to maintain anonymity.

To assess for pattern or systemic behavior, the Office of Equity and Civil Rights will maintain records of all reports and conduct referred for informal resolution. Information disclosed during the informal resolution process will not be considered during a subsequent investigation or adjudication.

B. Formal Resolution of Formal Complaints/Complaints

The procedures for formal resolution will be determined by the status of the Respondent(s) and the nature of the reported conduct. Specifically:

- Formal Complaints against students and employees for reports of conduct that constitutes Sexual Harassment (which occurred within the University's Program or Activity, which occurred within the United States, and where the Complainant is participating, or attempting to participating in Arcadia's Education Program or Activity) will be resolved utilizing the procedures outlined in **Appendix A**.
- Complaints/Formal Complaints of reported conduct that implicates the Non-Discrimination and Non- Harassment Policy or which would constitute Sexual Misconduct under the Policy Prohibiting Sexual Harassment or Sexual Misconduct, or Sexual Harassment (but which did not occur within the University's Program or Activity, did not occur within the United States, or where the Complainant is not participating, nor attempting to participate in Arcadia's Education Program or Activity) will be resolved utilizing the procedures outlined in **Appendix B** (for student Respondents) or **Appendix C** (for employee Respondents). Dismissed Formal Complaints may also be resolved through the procedures in Appendix B or C as appropriate.

For information regarding the hearing procedures for TCGS participants, please see the TCGS Addendum for Procedures at the end of this document.

Formal Grievance Process proceedings are private. All persons present at any time during the Formal Grievance Process are expected to maintain the privacy of the proceedings. While there is an expectation of

privacy around what Investigators share with Parties during interviews, the Parties have discretion to share their own knowledge and evidence with others if they so choose. Arcadia encourages Parties to discuss this with their Advisors before doing so.

C. Formal Grievance Process: Respondent Acceptance of Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Formal Grievance Process. If the Respondent indicates an intent to accept responsibility for *all* of the alleged misconduct, the Formal Grievance Process will be paused, and the Director of OECR/Title IX Coordinator will determine whether informal resolution can be used according to the criteria in Section III(A). Informal resolution is not available where a student Complainant alleges Sexual Harassment by an employee Respondent.

If informal resolution is applicable, the Dean of Students (for student Respondents) or the Vice President of Human Resources (for employee Respondents) will determine whether all Parties and the University are able to agree on responsibility, Sanctions, and/or remedies. If so, the Dean of Students or Vice President of Human Resources, as appropriate, implements the accepted Finding that the Respondent is in violation of Arcadia policy and implements agreed-upon Sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary. In cases involving faculty, the President will implement the agreed-upon Sanctions and/or remedies.

This result is not subject to appeal once all Parties indicate their written assent to all agreed upon terms of Resolution. When the Parties cannot agree on all terms of Resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a Resolution is accomplished, the appropriate Sanction or responsive actions are promptly implemented.

D. Formal Grievance Process: Resolution Timeline

Arcadia will make a good faith effort to complete the Formal Grievance Process within a ninety (90) business day time period, beginning on the day the Formal Complaint/Complaint is received by the Director of OECR/Title IX Coordinator, including appeals, which can be extended as necessary for appropriate cause by the Dean of Students/Vice President of Human Resources, who will provide notice and rationale for any extensions or delays to the Parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

E. Formal Grievance Process: Investigations

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 Director of OECR/Title IX Coordinator promptly appoints Investigators to conduct the investigation (typically using a team of two Investigators). The University may designate Investigators of its choosing from inside or outside of the University. The Investigators will be individuals who have specific training and experience investigating allegations of Discrimination, Harassment, Bias Incidents, Sexual Harassment, Sexual Misconduct, and Retaliation. The University will typically designate an Investigator from the Office of Equity and Civil Rights, or a Deputy Title IX Coordinator, to conduct the investigation. The University may also choose to engage an external Investigator, at its sole discretion.

a. Impartiality

Any individual materially involved in the administration of the Formal Grievance Process (including the Director of OECR/Title IX Coordinator, Investigator(s), and decision maker(s)) may neither have nor demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent.

The Director of OECR/Title IX Coordinator will conduct an assessment of the assigned Investigator(s) to confirm for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may, at any time during the Formal Grievance Process, raise a concern regarding bias or conflict of interest, and the Director of OECR/Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director of OECR/Title IX Coordinator, concerns should be raised with the Assistant Vice President of Access, Equity, Diversity, and Inclusion, Angela McNeil, at 215-517- 2657 or mcneila@arcadia.edu.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Arcadia operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

b. Investigation Timeline

Investigations are intended to be completed expeditiously, normally within thirty (30) business days from the day the Formal Complaint/Complaint is received by the Director of OECR/Title IX Coordinator, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, and other factors. Circumstances which may cause a delay include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University will make a good faith effort to complete investigations promptly under the relevant circumstances and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

c. Steps in the Investigation Process

Investigations involve interviews with all directly related Parties and witnesses; obtaining available, directly related evidence; and identifying sources of expert information, as necessary.

All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. However, the burden of gathering evidence remains with the University.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant.

- In coordination with campus partners (e.g., the Director of OECR/Title IX Coordinator), initiate or assist with any necessary supportive measures.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the Parties.
- Meet with the Complainant to review their interview/statement, if necessary.
- Provide each interviewed Party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- When participation of a Party is expected, provide that Party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, directly related witnesses and conduct follow-up interviews as necessary.
- Allow each Party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other Party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the Parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors (if so desired by the Parties) with a list of witnesses whose information will be used to render a Finding.
- Write a comprehensive investigation report fully summarizing the investigation and all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors (if so desired by the Parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Arcadia does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each Party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.
- The Investigator(s) may elect to respond in writing in the investigation report to the Parties' submitted responses and/or to share the responses between the Parties for additional responses.
- The Investigator(s) will incorporate relevant elements of the Parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- The Investigator will then share the final report with all Parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The Parties are also provided with an electronic file of any directly related evidence that was not included in the report.

d. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the Parties) who are employees of Arcadia University are expected to cooperate with and participate in the University's investigation and Formal Grievance Process.

In-person interviews for Parties and all potential witnesses are preferred, but circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness

or efficiency dictate a need for remote interviewing. Arcadia University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

e. Recording of Interviews

No audio or video recording of any kind is permitted during meetings that are part of the investigation.

f. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern or 2) the character of the Parties, based on a threshold assumption that character evidence is not typically relevant; or questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

g. Referral for Hearing

Provided that the Formal Complaint/Complaint is not resolved through informal resolution, once the final investigation report is shared with the Parties, the Director of OECR/Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the Parties and the decision maker–unless all Parties and the decision maker agree to an expedited timeline.

The Director of OECR/Title IX Coordinator will select an appropriate decision maker depending on what Formal Grievance Process will be used and whether the Respondent is an employee or a student. The process used for allegations involving student-employees, in the context of their employment, will be directed to the appropriate decision maker depending on the context and nature of the alleged misconduct.

III. LONG TERM REMEDIES/OTHER ACTIONS

Following the conclusion of the Formal Grievance Process, and in addition to any Sanctions implemented, the Director of OECR/Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the campus community that are intended to stop the Harassment, Discrimination, a Bias Incident, Sexual Harassment, Sexual Misconduct, and/or Retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to, where possible:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys

- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Director of OECR/Title IX Coordinator, certain long-term support or measures may also be provided to the Parties even if no policy violation is found.

When no policy violation is found, the Director of OECR/Title IX Coordinator will address any remedies owed by Arcadia University to the Respondent to ensure no effective denial of educational access.

Arcadia University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

A. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned Sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final decision maker (including the appellate authority).

Failure to abide by the Sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional Sanction(s)/action(s), including removal from housing, suspension, expulsion, and/or termination from the University, and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Dean of Students or the Vice President of Human Resources.

IV. RECORDKEEPING

Arcadia will maintain for a period of seven (7) years records of:

1. Each investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required by relevant federal regulation;
2. Any disciplinary Sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Arcadia University's Education Program or Activity;
4. Any appeal and the result therefrom;
5. Any informal resolution and the result therefrom;
6. All materials used to train Director of OECR/Title IX Coordinator, Investigators, decision makers, and any person who facilitates an informal resolution process. Arcadia will make these training materials publicly available on [Arcadia University's OECR website](#).
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the University's Education Program or Activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will also maintain any and all records in accordance with state and federal laws.

V. DISABILITY ACCOMMODATIONS IN THE RESOLUTION PROCESS

Arcadia University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Arcadia University's Formal Grievance Process.

Anyone needing such accommodations or support should contact the Director of Disability Services (for students) or the Vice President of Human Resources (for employees) who will review the request and, in consultation with the person requesting the accommodation and the Director of OECR/Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

VI. REVISION OF THESE PROCEDURES

These Procedures supersede any previous procedures addressing Sexual Harassment, Sexual Misconduct, Discrimination, Harassment, Bias Incidents, and/or Retaliation and will be reviewed and updated periodically by the CFO. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Formal Grievance Process, the Director of OECR/Title IX Coordinator may make minor modifications to these Procedures that do not materially jeopardize the fairness owed to any Party, such as to accommodate summer schedules. The Director of OECR/Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and Procedures.

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

These Procedures are effective August 25, 2021.

APPENDIX A

Grievance Procedures for Student and Employee Respondents for Conduct that constitutes Sexual Harassment (where the conduct occurred within Arcadia's Education Program or Activity, occurred within the United States, and where the Complainant is participating, or attempting to participate, in Arcadia's Education Program or Activity)

The below Procedures will be used in Formal Grievance Processes to address Formal Complaints against students and employees for reports of Sexual Harassment (where the conduct occurred within Arcadia's Education Program or Activity, occurred within the United States, and where the Complainant is participating, or attempting to participate, in Arcadia's Education Program or Activity).

I. HEARING PREPARATION

A. Hearing Decision maker/Chair

The Director of OECR/Title IX Coordinator will designate an individual, either internal to the University or someone external, as the decision maker. The decision maker will also chair the hearing.

The decision maker will not have had any previous involvement with the investigation. The Director of OECR/Title IX Coordinator may elect to have an alternate decision maker sit in throughout the Formal Grievance Process in the event that a substitute is needed for any reason.

The Dean of Students or Vice President of Human Resources will give the decision maker a list of the names of all Parties, witnesses, and Advisors prior to sending the Notice of Hearing. Any decision maker who believes they cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the Parties, witnesses, and Advisors. If a decision maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Director of OECR/Title IX Coordinator as soon as possible.

Those who are serving as Advisors for any Party may not serve as decision makers in that matter. The hearing will convene at a time determined by the decision maker or their designee.

B. Notice of Hearing

At least ten (10) business days prior to the hearing, the Dean of Students (for student Respondents) or the Vice President for Human Resources (for employee Respondents) will send notice of the hearing to the Parties. Once mailed, emailed, and/or delivered in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable Procedures, and a statement of the potential Sanctions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the Parties located in separate rooms using technology that enables the decision maker and Parties to see and hear a Party or witness

answering questions. Such a request must be raised with the Director of OECR/Title IX Coordinator at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any decision maker on the basis of demonstrated bias. This must be raised with the Director of OECR/Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and how to access to the recording for the Parties after the hearing.
- A statement that if any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the Party's or witness's testimony and any statements given prior to the hearing will not be considered by the decision maker. For compelling reasons, the decision maker may reschedule the hearing.
- Notification that the Parties must have the assistance of an Advisor of their choosing at the hearing to present any questions they may desire to ask. The Party must notify the Director of OECR/Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each Party must have an Advisor present. There are no exceptions.
- An invitation to each Party to submit to the decision maker an impact statement at the hearing that the decision maker will review during any Sanction determination.
- An invitation to contact Human Resources or Disability Support Services to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether Parties can/cannot bring mobile phones/devices into the hearing.
- The name of the decision maker. All objections to any decision maker must be raised in writing five (5) days prior to the hearing date, detailing the rationale for the objection, and must be submitted to the Director of OECR/Title IX Coordinator. The decision maker will only be removed if the Director of OECR/Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the relevant Policy and these Procedures) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the ninety (90) business day goal for resolution.

C. Alternative Hearing Participation Options

If a Party or Parties prefer not to attend or cannot attend the hearing in person, the Party should request alternative arrangements from, as appropriate, the Dean of Students or Vice President of Human Resources at least five (5) business days prior to the hearing.

The Dean of Students or Vice President of Human Resources can arrange to use technology to allow remote testimony without compromising the fairness of the hearing, i.e. technology that permits the Parties to see and hear each other, any witnesses, the Advisors asking questions, and the decision maker. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Director of OECR/Title IX Coordinator or the decision maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Participants in TCGS programs abroad or domestically, that are not able to travel to Glenside for an in-person hearing, will have the opportunity to participate remotely in hearings and meetings.

D. Pre-Hearing Preparation

The Dean of Students or Vice President of Human Resources, after any necessary consultation with the Investigator(s), and/or Director of OECR/Title IX Coordinator, will provide the names of persons who will be participating in the hearing. The Dean of Students or Vice President of Human Resources will notify the Investigator for that case to provide all documentary evidence directly related to the allegations of the Formal Complaint, and the final investigation report to the Parties at least ten (10) business days prior to the hearing.

The Dean of Students or Vice President of Human Resources will contact any witnesses to request their participation in the hearing. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all Parties and the decision maker assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the Parties and decision maker do not assent to the admission of evidence newly offered at the hearing, the decision maker will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

During the ten (10) business day period prior to the hearing, the Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the decision maker at the pre-hearing meeting or at the hearing and will be exchanged between each Party by the decision maker.

E. Pre-hearing Meetings

The Dean of Students or Vice President of Human Resources may convene a pre-hearing meeting(s) which will be led by the decision maker. The pre-hearing meeting(s) will provide the Parties and/or their Advisors the opportunity to submit the questions, though not required, on topics they (the Parties and their Advisors) wish to ask or discuss at the hearing, so that the decision maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude the Parties, through their respective Advisors, from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The decision maker must document and share with each Party their rationale for any decision to exclude or include a question/topic that is made at a pre-hearing meeting.

At each pre-hearing meeting with a Party and their Advisor, the decision maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The decision maker may rule on these arguments pre-hearing and will exchange those rulings between the Parties prior to the hearing to assist in preparation for the hearing. The decision maker may consult with legal counsel and/or the Director of OECR/Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded, but the decision maker will maintain a written record of their evidentiary decisions.

II. HEARING PROCEDURES

At the hearing, the decision maker has the authority to hear and make determinations on all allegations of conduct that constitutes Sexual Harassment, where the conduct occurred within Arcadia's Education Program or Activity, occurred within the United States, and where the Complainant is participating, or attempting to participate, in Arcadia's Education Program or Activity.

Participants at the hearing will include the decision maker, the Investigator(s) who conducted the investigation, the Parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the Parties, any called witnesses, the Director of OECDR/Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

The decision maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Witnesses will appear at a portion of the hearing in order to respond to specific questions. The witnesses will then be excused.

A. Advisors in Hearings/University-Appointed Advisor

U.S. Department of Education Title IX Regulations permit direct cross-examination during the hearing, but it must be conducted by the Parties' Advisors. The Parties are not permitted to directly ask questions of the other party or of any witnesses. If a Party does not have an Advisor for a hearing, the University will appoint an Advisor for the limited purpose of conducting cross-examination.

A Party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the Party's Advisor will not conduct cross-examination, the University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised Party in the hearing itself.

If the Party's original Advisor does not want to conduct cross-examination, the University-provided Advisor can conduct the cross-examination while the original Advisor may still attend the hearing.

B. Consolidation of Hearings

The Dean of Students or the Vice President of Human Resources, as appropriate depending on the status of the Parties (students or employees), in their discretion, may consolidate multiple Formal Complaints 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 or multiple Respondents.

The Dean of Students or the Vice President of Human Resources, as appropriate, also may, in their discretion, consolidate a hearing on a Formal Complaint with any reports/Complaints of alleged misconduct that would otherwise have been heard under the [Student Handbook](#) or the [Faculty Handbook](#) where that misconduct is temporally or logically connected to the allegations in the Formal Complaint.

C. The Order of the Hearing – Introductions and Explanation of Procedure

The Dean of Students/Vice President of Human Resources explains the procedures and introduces the participants.

The Dean of Students/Vice President of Human Resources may attend to: logistics of rooms for various Parties/witnesses as they wait; flow of Parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate; and other similar tasks.

D. Investigator Presents a Summary of the Investigation

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the decision maker and the Parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the Parties nor the decision maker should ask the Investigator(s) their opinions on credibility, recommended Findings, or determinations, and the Investigators, Advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the decision maker will direct that it be disregarded.

E. Testimony and Questioning

Once the Investigator(s) presents their report and is questioned, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the decision maker. The Parties and witnesses will submit to questioning by the decision maker and then by the Parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the decision maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, and the proceeding will pause to allow the decision maker to consider the question and determine whether the question will be permitted, disallowed, or rephrased.

Before the decision maker determines whether a question will be permitted, they may invite explanations or persuasive statements regarding relevance as indicated below, if the decision maker so chooses. The decision maker will then state their decision on the question for the record and advise the Party/witness to whom the question was directed, accordingly. The decision maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The decision maker will limit or disallow questions on the basis that they are irrelevant, or repetitious (and thus irrelevant), or violates the section dictating the behavioral expectations of Advisors. The decision maker has final say on all questions and determinations of relevance, subject to any appeal. The decision maker may consult with legal counsel on any questions of admissibility. The decision maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the decision maker has ruled on a question.

If the Parties raise an issue of bias or conflict of interest of an Investigator or decision maker at the hearing, the decision maker may elect to address those issues, consult with legal counsel, and/or refer them to the Director of OECR/Title IX Coordinator, and/or preserve them for appeal. If bias is not specifically at issue at the hearing, the decision maker should not permit irrelevant questions that probe for bias.

F. Evidentiary Considerations in the Hearing

Any evidence that the decision maker determines is relevant will be considered. The decision maker does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern, or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered if relevant.

The Parties may each submit a written impact statement prior to the hearing for the consideration of the decision maker at the Sanction stage of the process if a determination of responsibility is reached.

After post-hearing deliberation, the decision maker renders a determination based on the preponderance of the evidence: whether it is more likely than not that the Respondent violated the Policy as alleged.

G. Refusal to Submit to Cross-Examination and Inferences

If a Party or witness does not submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the decision maker may still rely on relevant prior statements made by that Party or witness (including those contained in the investigation report) in the ultimate determination of responsibility.

The decision maker may not draw any inference solely from a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a Party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the Party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that Party with a different Advisor to conduct cross-examination on behalf of that Party.

H. Recording Hearings

Hearings (but not deliberations) are recorded by the University for the purpose of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted.

The decision maker, the Parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Director of OECR/Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Director of OECR/Title IX Coordinator.

I. Deliberation, Decision making, and Standard of Proof

The decision maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

If there is a Finding of responsibility on one or more of the allegations, the decision maker may then consider the previously submitted Party impact statements in determining appropriate Sanction(s).

The decision maker will review the statements and any pertinent conduct history provided by the Dean of Students (for student Respondents), the Vice President of Human Resources (for employee Respondents), or TCGS personnel (for TCGS Respondents). After making a determination on responsibility, the decision maker, if the Respondent is responsible, will consult with the Dean of Students/Vice President of Human Resources for final Sanctions to determine the appropriate Sanctions to be imposed for student/employee Respondents. Per the Faculty Handbook, the President will issue Sanctions for faculty Respondents; the President will communicate the Sanctions to the decision maker, who will then incorporate that decision into the Notice of Outcome explained below.

The decision maker will then prepare a written Notice of Outcome that (1) identifies the allegations that were at issue at the hearing; (2) describes the procedural steps taken from the receipt of the Formal Complaint through the decision maker's determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) includes Findings of fact supporting the determination; (4) includes conclusions regarding application of the Policy and Code of Conduct to the facts; (5) includes a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any Sanctions that will be imposed, and whether remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided; and (6) identifies the procedures and permissible bases for the Complainant and Respondent to appeal.

The decision maker then submits the final Notice of Outcome to, as appropriate, the Dean of Students or Vice President of Human Resources within five (5) business days of the end of deliberations, unless the Dean of Students or Vice President of Human Resources grants an extension. If an extension is granted, the Dean of Students or Vice President of Human Resources will notify the Parties.

The Notice of Outcome will also include information regarding when the results are considered by the University to be final.

J. Transmission of the Notice of Outcome

The Dean of Students or Vice President of Human Resources will simultaneously provide the Notice of Outcome to the Parties within three (3) business days of receiving the decision maker's deliberation statement.

The Notice of Outcome may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the Parties as indicated in official Arcadia University records; or emailed to the Parties' Arcadia University-issued email or otherwise approved account. Once mailed, emailed, and/or delivered in-person, notice will be presumptively delivered.

K. Sanctions

Factors considered when determining a Sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history

- Previous allegations or allegations involving similar conduct
- The need for Sanctions to bring an end to the conduct at issue
- The need for Sanctions to prevent the future recurrence of such conduct
- The need to remedy the effects of the conduct on the Complainant and the community
- The impact of the incident on the Parties
- Any other information deemed relevant by the decision maker

The Sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The Sanctions described in these Procedures are not exclusive of, and may be in addition to, other actions taken or Sanctions imposed by external authorities.

a. Student Sanctions

Sanctions that may be imposed for violations of the Non-Discrimination and Non- Harassment Policy or the Policy Prohibiting Sexual Harassment and Sexual Misconduct include:

Warning: Notice, in writing, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

No Contact Directive: Compliance with directives of no contact that limit access to specific University areas or forms of contact with particular persons.

Educational Requirements: Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate. This includes appropriate and relevant community service opportunities.

Disciplinary Probation: Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed offices, student research, athletics, University-related student employment, study abroad, and study abroad excursion trips). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other University policy violations may result in further disciplinary action.

Restitution: Repayment to the University or to an affected Party for damages resulting from a policy violation. To enforce this Sanction, the University reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Housing Restrictions: Exclusion from University Housing or required change in University Housing assignment. For TCGS participants, exclusion from Program Housing or required change in Program Housing Assignment.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file. Conditions for readmission may be specified in the suspension notice.

Expulsion: Permanent termination of student status and exclusion from University premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

Other Sanctions may be imposed instead of, or in addition to, those specified here. More than one of the Sanctions listed above may be imposed for any single violation.

b. Employee Sanctions

Responsive actions for an employee who has engaged in Harassment, Discrimination, a Bias Incident, Sexual Misconduct, Sexual Harassment, and/or Retaliation can include:

- Warning – Verbal or Written
- Performance Improvement Plan
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Assignment to a new supervisor
- Suspension with pay
- Suspension without pay
- Termination

In addition to or in place of the above Sanctions, the University may assign any other Sanctions as deemed appropriate.

Sanctions for staff will be imposed in accordance with the [Progressive Discipline Policy](#). Imposition of Sanctions for non-bargaining unit faculty will be made in accordance with the [Faculty Handbook](#). Adjunct faculty Sanctions will be made in accordance with the collective bargaining agreement.

L. Withdrawal or Resignation While Charges are Pending

Should a student Respondent decide to not participate in the Formal Grievance Process, the process may proceed absent their participation. Should a student Respondent permanently withdraw from the University, the Formal Grievance Process may end. This decision will be made at the Director of OECR/Title IX Coordinator's discretion. However, the University will continue to address and remedy any systemic issues, any variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged conduct. Moreover, in the event that a student withdraws or leaves while the Formal Grievance Process is pending, unless the Formal Complaint is dismissed by the University (as opposed to the process ending due to the student's having withdrawn or left), the Formal Grievance Process may be reconvened if the student wishes to return to the University (construed to include all colleges, schools, affiliates, divisions and subsidiaries of Arcadia University). They may also be barred from Arcadia University property and/or events. If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely. If the student is found to have violated a Policy and Sanctions are imposed, the student's return to the University may be subject to the satisfaction of the Sanctions.

Should an employee Respondent resign with unresolved allegations pending, the Formal Grievance Process may end.

However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged conduct.

Should an employee Respondent resign from the University, the Formal Grievance Process may end. However, the University will continue to address and remedy any systemic issues, any variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged conduct. Moreover, in the event that an employee resigns while the Formal Grievance Process is pending, unless the Formal Complaint is dismissed by the University (as opposed to the process ending due to the employee's having resigned), the Formal Grievance Process may be reconvened if the employee wishes to be rehired by the University (construed to include all colleges, schools, affiliates, divisions and subsidiaries of Arcadia University). They may also be barred from Arcadia University property and/or events.

All Arcadia University responses to future inquiries regarding employment references for that individual may include that the former employee resigned during a pending disciplinary matter.

M. Appeals

Any Party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Dean of Students/Vice President of Human Resources within five (5) days of the delivery of the Notice of Outcome.

The Appellate Officer for student and employee cases will be the Provost, or designee.

The Request for Appeal will be forwarded to the Appellate Officer for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Director of OECR/Title IX Coordinator, Investigator(s), or decision maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- (D) Severity of the Sanction imposed: To determine whether the Sanction(s) imposed was appropriate for the violation of the policy of which the student was found in violation.

If any of the grounds in the Request for Appeal do not meet the grounds in these Procedures, that request will be denied by the Appellate Officer and the Parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in these Procedures, then the Appellate Officer will notify the other Party(ies) and their Advisors, the Director of OECR/Title IX Coordinator, and, when appropriate, the Investigators and/or the original decision maker.

The other Party(ies) and their Advisors, the Director of OECR/Title IX Coordinator, and, when appropriate, the Investigators and/or the original decision maker will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was accepted and which involves them. All responses will be forwarded by the Appellate Officer to all Parties for review and comment.

Neither Party may submit any new requests for appeal after this time period. The Appellate Officer will collect any additional information needed and all documentation regarding the approved grounds and Appellate Officer will render a decision in ten (10) business days, barring exigent circumstances or complex cases. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all Parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the Finding on each ground for appeal, any specific instructions for reconsideration, any Sanctions that may result, and the rationale supporting the essential Findings.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' Arcadia University-issued email or otherwise approved account. Once mailed, emailed and/or delivered in-person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any Sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or reinstated, subject to the same supportive measure procedures above.

If any of the Sanctions are to be implemented immediately post-hearing but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

c. Appeal Considerations

- Appeals are not intended to provide for a full re-hearing (“de novo”) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the Appellate Officer to substitute their judgment for that of the original decision maker merely because they disagree with the Finding.
- The Appellate Officer may consult with the Director of OECR/Title IX Coordinator on questions of procedure or rationale for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be returned to the original Investigator(s) and/or decision maker for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or Sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the Appellate Officer and/or original decision maker (as in cases of bias), the appeal may order a new

- hearing with a new decision maker.
- The results of a new hearing can be appealed, once, on any of the four (4) available appeal grounds.

Non-bargaining unit faculty sanctioned with termination should consult section 90.28 of the Faculty Handbook for additional process which may be available after the processes described herein have been exhausted.

APPENDIX B

Grievance Procedures for Student Respondents for Conduct that falls under the Non-Discrimination and Non-Harassment Policy, for Conduct that constitutes Sexual Misconduct, and for Conduct that constitutes Sexual Harassment (where the conduct did not occur within Arcadia's Education Program or Activity, did not occur within the United States, or where the Complainant is not participating, or attempting to participate, in Arcadia's Education Program or Activity).

These Grievance Procedures are also used for Retaliation related to reports that fall under the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

The procedures in Appendix B will be used in Formal Grievance Processes to address Complaints against students for reports of (1) conduct prohibited by the Non-Discrimination and Non-Harassment Policy; (2) Sexual Misconduct that is prohibited by the Policy Prohibiting Sexual Harassment and Sexual Misconduct, and (3) Sexual Harassment that is not covered by the procedures set forward in **Appendix A**. These procedures are also used for reports of Retaliation related to the reporting and participation in a Formal Grievance Process for the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

Should a student Respondent decide to not participate in the Formal Grievance Process, the process proceeds absent their participation. Should a student Respondent permanently withdraw from the University, the University may, in its discretion, choose to end the Formal Grievance Process.

In either situation, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged conduct. A student Respondent who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all colleges, schools, affiliates, divisions and subsidiaries of Arcadia University. A hold will be placed on their ability to be readmitted. They may also be barred from Arcadia University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely and that student is not permitted to return to the University unless and until all Sanctions have been satisfied.

During the Formal Grievance Process, the University may put a hold on a Respondent student's transcript or place a notation on a Respondent student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

I. DETERMINING THE APPROPRIATE GRIEVANCE PROCESS

The Dean of Students has discretion to determine which grievance process—either Administrative Hearing or a Judicial Board/External Adjudicator Hearing—is appropriate. Persons accused of violations of the [Non-Discrimination and Non-Harassment Policy](#) that would not result in suspension or expulsion will have the matter adjudicated through an Administrative Hearing, through which Sanctions imposed may be such responses as warnings, reprimands, fines or restitution, educational workshops, censure, probation, or denial of privileges in the use of facilities.

Typically, only allegations of Discrimination, Harassment, and Bias Incidents that could result in

suspension, or expulsion are subject to a hearing with the Judicial Board or an external adjudicator for a hearing. At the Dean of Student's discretion, a Judicial Board or external adjudicator hearing can be requested in situations that would not result in suspension, dismissal, or expulsion in situations when, for example, an impartial officer could not be obtained to conduct the Administrative Hearing. In addition, students who are on Disciplinary Probation may be referred to a hearing with the Judicial Board or an external adjudicator if a Finding for even a comparatively minor violation of University Policy could result in suspension, dismissal, or expulsion due to the person's status as being on Disciplinary Probation.

All persons accused of violations of the Policy Prohibiting Sexual Harassment and Sexual Misconduct will have the matter adjudicated through a hearing using a Judicial Board or an external adjudicator.

II. ADMINISTRATIVE HEARING (Reported Violations of the Non-Discrimination and Non-Harassment Policy and Retaliation related to the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct that Could Not Result in Suspension or Dismissal)

Following the receipt of the investigation report, if an Administrative Hearing is determined to be the next step in the process, a Hearing Officer will be assigned by the Dean of Students. The student will receive an Administrative Hearing notice from the Hearing Officer which will outline the alleged charges and procedures for meeting with the Hearing Officer.

In general, Administrative Hearing notifications will be sent to the Complainant and Respondent within five (5) business days of receipt of the investigation report. The time for distribution of a hearing notice may be extended as necessary. However, all efforts will be made to deliver Administrative Hearing notices as soon as possible. Reasons for a delay in distribution of an Administrative Hearing notice may include, but is not limited to, other conduct matters that are commanding the attention of the Student Affairs Office.

A Complainant or a Respondent in receipt of a hearing notice is required to respond to the Administrative Hearing notice as outlined in the letter. Parties are expected to respond within twenty-four (24) hours of receipt of an Administrative Hearing notice to schedule a time to meet with the Hearing Officer. All Administrative Hearing notifications will be sent via Arcadia University email and it is expected that Parties will be checking their Arcadia email daily. Failure to respond to the Hearing Officer may result in decisions being made regarding a student's involvement in an alleged violation without their input.

A. Administrative Hearing Process

In preparation for the Administrative Hearing, both Parties will have the Notice of the Hearing and the opportunity to review the investigation report. In an Administrative Hearing, the Hearing Officer will meet with both Parties. At the time of the Administrative Hearing, the Parties will each have the opportunity to present relevant information to the Hearing Officer, who will determine responsibility and a Sanction, if appropriate.

The hearing is meant to be educational, corrective, and developmental and therefore is a conversation between the Parties and the Hearing Officer. In general, no other individuals are allowed to be present during the Administrative Hearing, except for the Parties' Advisors. During the meeting, the Hearing Officer will present the information they have regarding the situation with accompanying evidence. The Parties will then have the opportunity to present their sides of the situation and the Respondent can either take responsibility or not take responsibility for the alleged violation. Decisions are not made at the time of the meeting. Possible

Sanctions will be discussed. Generally, only one meeting will be necessary for the Hearing Officer to make a decision.

In reaching a decision as to whether the Policy has been violated, the Hearing Officer will reach a determination by a preponderance of the evidence. Under the preponderance of the evidence standard, the Hearing Officer will determine whether the conduct was “more likely than not” to have occurred as alleged. In reaching a determination of responsibility, the Hearing Officer will use the investigation report as the primary evidence. The burden is not on the Respondent to prove that they are not responsible for the alleged violation(s).

After the Hearing Officer renders a decision, the Dean of Students will issue an appropriate Sanction, if applicable. The Dean of Students, in consultation with the Director of OECR/Title IX Coordinator, will also implement any appropriate and reasonable remedial measures. Both a Complainant and Respondent may appeal the determination of the Dean of Students as provided in the Appeals section below.

III. JUDICIAL BOARD HEARING (Reported Violations of the Non-Discrimination and Non-Harassment Policy that Could Result in Suspension or Dismissal, Conduct that constitutes Sexual Misconduct, for Conduct that constitutes Sexual Harassment (where the conduct did not occur within Arcadia’s Education Program or Activity, did not occur within the United States, or where the Complainant is not participating, or attempting to participate, in Arcadia’s Education Program or Activity or for Reports of Retaliation that could result in Suspension or Dismissal)

For reported violations of the Non-Discrimination and Non-Harassment Policy that could result in suspension or dismissal, for all reported violations of the Policy Prohibiting Sexual Harassment and Sexual Misconduct not addressed by Appendix A, and reports of Retaliation that could result in suspension or dismissal or if the Dean of Students otherwise determines that an Administrative Hearing is not an appropriate method for Resolution, the case will proceed to a hearing with the Judicial Board or an external adjudicator. The Director of OECR/Title IX Coordinator has the sole discretion to determine whether to use a Judicial Board or an external adjudicator.

A. Judicial Board Pool

The Director of OECR/Title IX Coordinator will designate a pool of individuals who are able to serve on the Judicial Board. If the Director of OECR/Title IX Coordinator determines that using a Judicial Board—as opposed to an external adjudicator—is appropriate, the Judicial Board will consist of three (3) individuals from the pool. The members of the Judicial Board will not have had any previous involvement with the investigation.

The Investigators will be witnesses in the hearing and therefore may not serve as Judicial Board members. Those who are serving as Advisors for any Party may not serve as Judicial Board members in the matter. The hearing will convene at a time determined by the Dean of Students.

The Judicial Board is a fact-finding hearing board trained in student conduct procedures that typically hears cases that might result in serious disciplinary action by the University. Judicial Board hearings for cases brought under the Policies may include staff members of the University as Judicial Board members, and do not include students as Judicial Board members. Judicial Board members are trained at least annually in the dynamics of Bias Incidents, identity- based Discrimination and Harassment, Sexual Harassment, Sexual Misconduct, 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 relevant Policies and Procedures.

As noted, the University may appoint an external adjudicator to sit in place of the Judicial Board or in addition to the Judicial Board as part of a "hybrid panel." In all respects where the Judicial Board is referenced in Appendix B, an external adjudicator may be substituted or added.

The University will inquire with each prospective Judicial Board member, or the external adjudicator, whether they believe they can be fair and impartial in a hearing. Additionally, the Complainant and/or the Respondent may ask in writing no later than five (5) days prior to the hearing that a member of the Board, or the external adjudicator, 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 of interest.

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.

B. Notice of Hearing

Once each Party has met with the Director of OECR/Title IX Coordinator and Dean of Students a Notice of Hearing is sent by the Dean of Students to the Complainant and the Respondent ten (10) days prior to the hearing.

The Notice of Hearing will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential Sanctions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the Parties located in separate rooms using technology that enables the Judicial Board or external adjudicator and Parties to see and hear a Party or witness answering questions. Such a request must be raised with the Director of OECR/Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Judicial Board members or external adjudicators on the basis of demonstrated bias. This must be raised with the Dean of Students at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- A statement that if any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the Party's or witness's testimony and any statements given prior to the hearing will not be considered by the Judicial Board or external adjudicator. For compelling reasons, the Judicial Board or external adjudicator may reschedule the hearing.

- Notification that the Parties may have the assistance of an Advisor of their choosing at the hearing.
- A copy of all the materials provided to the Judicial Board or external adjudicator about the matter, unless they have been provided already.³
- An invitation to each Party to submit to the Judicial Board or external adjudicator an impact statement pre-hearing that the Judicial Board or external adjudicator will review during any Sanction determination.
- An invitation to contact Disability Support Services to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether Parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the relevant Policy and these Procedures) and are unable to be resolved prior to the end of the term will typically be held immediately after the end of the term or during the summer, as needed, to meet the Resolution timeline followed by the University and remain within the ninety (90) business day goal for Resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on the conferral of their degree until the matter is fully resolved (including any appeal). A student facing charges under the Non-Discrimination and Non-Harassment Policy or the Policy Prohibiting Sexual Harassment and Sexual Misconduct may not be in good standing to graduate.

C. Alternative Hearing Participation Options

If a Party or Parties prefer not to attend or cannot attend the hearing in person, the Party should request alternative arrangements from, as appropriate, the Dean of Students at least five (5) business days prior to the hearing.

The Dean of Students can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Director of OECR/Title IX Coordinator or the decision maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Participants in TCGS programs abroad or domestically, that are not able to travel to Glenside for an in-person hearing, will have the opportunity to participate remotely in hearings and meetings.

D. Pre-Hearing Preparation

The Dean of Students, after any necessary consultation with the Investigator(s), and/or Director of OECR/Title IX Coordinator, will provide the names of persons who will be participating in the hearing. The Dean of Students will notify the Investigator for that case to provide all pertinent documentary evidence and the final investigation report to the Parties at least ten (10) business days prior to the hearing.

³ The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

The Dean of Students will contact any witnesses to request their participation in the hearing. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all Parties and the decision maker assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the Parties and decision maker do not assent to the admission of evidence newly offered at the hearing, the decision maker will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

During the ten (10) business day period prior to the hearing, the Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the decision maker at the pre-hearing meeting or at the hearing and will be exchanged between each Party by the decision maker.

E. Prehearing Meetings with Complainant and Respondent

Prior to the hearing, the Dean of Students will contact the Complainant and Respondent to schedule meetings with each Party individually.

At these prehearing meetings, the Director of OECR/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 and/or Respondent to this meeting.

F. Consolidation of Hearings

The Dean of Students, in their 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.

G. 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 (5) 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.

H. 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. This does not preclude Parties from sharing information with their Advisors consistent with Section I(G).

I. Identification of Witnesses

The Complainant, Respondent, and members of the Judicial Board and/or the external adjudicator 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 five (5) 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 the 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 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 Director of OECR/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 Dean of Students will provide the Respondent and Complainant with a list of witnesses and any relevant documents related to their appearance at the hearing no later than seven (7) business days before the hearing.

J. Attendance at Hearing

If a Party does not attend a hearing, for any non-emergency or without a compelling reason, the hearing may be held in their 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 the Formal Grievance Process, the University reserves the right to move forward with the hearing and imposition of educational outcomes, if any, in absentia.

K. Participants in Hearing Procedures

These are closed hearings, not open to the public. The individuals from the University community who may appear before the Board or other adjudicator are: the Complainant, the Respondent, three (3) organizational representatives when an organization is the Respondent, any individuals serving as Advisors, the Investigator(s), and any individuals who appear as witnesses. Moreover, the Director of OECR/Title IX Coordinator may attend any hearing.

L. Hearing Procedures

While there may be disciplinary Sanctions and remedies imposed following a Formal Grievance Process, 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 their version of events and

for the Judicial Board or external adjudicator to determine the facts of the case, make a determination regarding the alleged violations of University policy, and to recommend appropriate Sanctions, if necessary. The hearing is an informal proceeding not comparable to a criminal trial. The University utilizes the Formal Grievance Process to assess and, as appropriate, take disciplinary action and implement appropriate remedies regarding a violation of University policy.

The Judicial Board or external adjudicator 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(s), the Respondent(s), Investigator(s), and witnesses.

A hearing will be called to order by the Dean of Students. The hearing will have an external adjudicator, and/or a Judicial Board Chair, who will serve as a non-voting presiding member and as an adviser to the Judicial Board, and who 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 external adjudicator or Judicial Board in prioritizing areas of inquiry. The external adjudicator or Judicial 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 Judicial 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 their own account of the events in a narrative format. The external adjudicator or Judicial Board may pose questions to the Complainant. The Respondent is encouraged to compile a written list of cross-examination questions that they would like to pose to the Complainant. The list will be provided to the external adjudicator or 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 directly or indirectly address 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 their own account of the events in a narrative format. The external adjudicator or Judicial Board may pose questions to the Respondent. The Complainant is encouraged to compile a written list of cross-examination questions that they would like to pose to the Respondent. The list will be provided to the external adjudicator or 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 directly or indirectly address 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 external adjudicator or Judicial Board Chair. 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 external adjudicator or Judicial Board Chair, who will determine the relevance of the questions and pose any questions deemed relevant.

The external adjudicator or Judicial 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.

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

a. Questioning Witnesses

It is the responsibility of the external adjudicator or Judicial Board to ensure that the information necessary to make an informed decision is presented. The external adjudicator or Judicial Board may play an active role in questioning both Parties and witnesses involved in the case. The external adjudicator or Judicial Board is under no obligation to allow either Party to directly question witnesses. As outlined above, in Formal Complaints/Complaints involving allegations of sexual violence, the Parties may submit questions to the external adjudicator or Judicial Board in writing, which may be posed at the discretion of the external adjudicator or Judicial Board.

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

b. Recording Hearings

Hearings (but not deliberations) are recorded by the University for the purpose of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted.

The decision maker, the Parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Director of OECR/Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Director of OECR/Title IX Coordinator.

c. Deliberation

After all of the information has been presented, all Parties will be dismissed from the hearing room so that the external adjudicator or 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 Sanctions unless there is a tie. The Judicial Board must reach a decision on responsibility by majority vote. Findings should be made by using the preponderance of the evidence (“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 external adjudicator or Judicial Board will be reduced to writing in a deliberation statement. The deliberation statement will detail the Findings of fact and the basis/rationale for the decision of the adjudicator or Judicial Board, making reference to the evidence that led to the finding.

d. Preponderance of the Evidence

The external adjudicator or Board will determine a Respondent’s responsibility by a preponderance

of the evidence. This means that the adjudicator or 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). The burden is not on the Respondent to prove that they are not responsible for the alleged violations(s).

M. Sanctions

If the final finding is that Respondent violated the Non-Discrimination and Non-Harassment Policy or the Policy Prohibiting Sexual Harassment and Sexual Misconduct, the Dean of Students may impose Sanctions on the Respondent. In keeping with the University’s commitment to foster an environment that is safe, inclusive, and free of Prohibited Conduct, these Procedures provide the Dean of Students with wide latitude in the imposition of Sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the Complainant and surrounding community, and accountability for the Respondent. The imposition of Sanctions is designed to eliminate the Prohibited Conduct under the relevant Policy, prevent its recurrence, and remedy its effects, while supporting the University’s educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe Sanctions, including suspension or expulsion from the University.

If the case is adjudicated via a hearing with an external adjudicator or the Judicial Board, 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 them, and/or requested Sanctions and remedies. These statements will be reviewed by the external adjudicator or Judicial Board only if the Respondent is found responsible.

If an external adjudicator or the Judicial Board finds the Respondent responsible for a violation of either policy, the Dean of Students will impose appropriate Sanctions and/or 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.

Each incident is reviewed on an individual basis. Depending on the specifics of the incident, more or less severe Sanctions may be imposed. In determining the appropriate Sanction, the Dean of Students shall consider the following factors:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for Sanctions to bring an end to the conduct
- The need for Sanctions to prevent the future recurrence of the conduct
- The need to remedy the effects of the conduct on the Complainant and the community
- The impact of the incident on the Parties
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate Resolution in each case.

Sanctions that may be imposed under this policy include:

Warning: Notice, in writing, that continuation or repetition of Prohibited Conduct may be

cause for additional disciplinary action.

No Contact Directive: Compliance with directives of no contact that limit access to specific University areas or forms of contact with particular persons.

Educational Requirements: Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate. Includes appropriate and relevant community service opportunities.

Disciplinary Probation: Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed offices, student research, athletics, University-related student employment, study abroad, and study abroad excursion trips). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other University policy violations may result in further disciplinary action.

Restitution: Repayment to the University or to an affected Party for damages resulting from a policy violation. To enforce this Sanction, the University reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Housing Restrictions: Exclusion from University Housing or required change in University Housing assignment. For TCGS participants, exclusion from Program Housing or a required change in Program Housing assignment.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file. Conditions for readmission may be specified in the suspension notice.

Expulsion: Permanent termination of student status and exclusion from University premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

Withholding Degree: The University may withhold awarding a degree otherwise earned until the completion of the process set forth in these Procedures, including the completion of all Sanctions imposed. Other Sanctions may be imposed instead of, or in addition to, those specified here.

Other Sanctions may be imposed instead of, or in addition to, those specified here. More than one of the Sanctions listed above may be imposed for any single violation.

Any Sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or reinstated, subject to the same supportive measure procedures above.

If any of the Sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

N. Notice of the Outcome

The Dean of Students will communicate the deliberation statement 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 deliberation statement will be final and communicated to the Parties within ten (10) 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.

IV. APPEALS

Any Party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Dean of Students within five (5) days of the delivery of the Notice of Outcome.

The Complainant and/or Respondent may appeal only the parts of the determination of responsibility directly relating to themselves. The appeal shall consist of a plain, concise written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. Each Party will be notified if the other Party files an appeal, will be given an opportunity to review the appeal and supporting documentation, and may submit a written response to the appeal within five (5) business days. At the discretion of the Dean of Students, an appeal will be assigned to the University Provost (or their designee), who will act as the Appellate Officer. The Appellate Officer shall hear appeals on the following grounds:

- a. Severity of the Sanction imposed: To determine whether the Sanction(s) imposed was appropriate for the violation of the policy of which the student was found in violation.
- b. Improper procedure: A substantive or procedural error(s) occurred at the time of the adjudication that had a material impact on the outcome of the adjudication.
- c. New evidence: 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.

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

In any request for an appeal, the burden of proof lies with the appealing Party. An appeal is a deferential review of the Resolution. It is not an opportunity for the Appellate Officer to substitute their 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 three 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 Sanctions, 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 adjudicator, to be designated by the Director of OECR/Title IX Coordinator from inside or outside of the University; or
 - If the Appellate Officer grants the appeal because of new evidence, the Appellate Officer can recommend that the case be returned to the original Judicial Board or external

adjudicator or Administrative Hearing Officer to assess the weight and effect of the new evidence and render a determination after considering the new evidence, or, in certain circumstances, assign to an Investigator for a new investigation or supplement thereof.

The Director of OECR/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 (10) business days from the date of the submission of all appeal documents by both Parties. Appeal decisions are final.

APPENDIX C

Grievance Procedures for Employee Respondents for Conduct that falls under the Non-Discrimination and Non-Harassment Policy, for Conduct that constitutes Sexual Misconduct, and for Conduct that constitutes Sexual Harassment (where the conduct did not occur within Arcadia's Education Program or Activity, did not occur within the United States, or where the Complainant is not participating, or attempting to participate, in Arcadia's Education Program or Activity). These Grievance Procedures are also used for Retaliation related to reports that fall under the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

The below procedures will be used in Formal Grievance Processes to address Formal Complaints/Complaints against employees for reports of conduct prohibited by the Non-Discrimination and Non-Harassment Policy, Sexual Misconduct that is prohibited in the Policy Prohibiting Sexual Harassment and Sexual Misconduct, and Sexual Harassment that is not addressed by the procedures provided in **Appendix A**. These procedures are also used for reports of Retaliation related to the reporting and participation in a Formal Grievance Process for the Non-Discrimination and Non-Harassment Policy and the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

Should an employee resign with unresolved allegations pending, the Director of OECR/Title IX Coordinator and the Vice President of Human Resources will reflect that status, and the University's responses to future inquiries regarding employment references for that individual may include that the former employee resigned during a pending disciplinary matter. Refusal of an employee Respondent to participate in the below processes is not permitted and may result in Sanctions up to and including termination.

I. FORMAL RESOLUTION OF COMPLAINTS

Formal resolution is a Sanctions-based process that may involve discipline and remedial action. Formal resolution of a Complaint or Formal Complaint against an employee under the Non-Discrimination and Non-Harassment Policy or the Policy Prohibiting Sexual Harassment and Sexual Misconduct will occur through the use of an Administrative Hearing.

A. Administrative Hearing

The Vice President of Human Resources or an external adjudicator will act as the Hearing Officer. The Hearing Officer will receive the investigation report.

If the Complainant and/or Respondent has elected to have an Advisor 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 Vice President of Human Resources who will determine responsibility and a Sanction, if appropriate.

The hearing is a conversation between the Parties and the Hearing Officer. In general, no other individuals are allowed to be present during the Administrative Hearing, except for the Parties' Advisors. During the meeting, the Hearing Officer will present the information they have regarding the situation with accompanying evidence. The Parties will then have the opportunity to present their sides of the situation and the Respondent can either take responsibility or not take responsibility for the alleged violation. Decisions are not made at the time of the meeting. Possible Sanctions will be discussed. Generally, only

one meeting will be necessary for the Hearing Officer to make a decision.

In reaching a decision as to whether the Policy has been violated, the Hearing Officer will reach a determination by a preponderance of the evidence. Under the preponderance of the evidence standard, the Hearing Officer will determine whether the conduct was “more likely than not” to have occurred as alleged. In reaching a determination of responsibility, the Hearing Officer will use the investigation report as the primary evidence. The burden is not on the Respondent to prove that they are not responsible for the alleged violations(s).

After the Hearing Officer renders a decision, the Vice President of Human Resources will issue an appropriate Sanction, if applicable. The Vice President of Human Resources, in consultation with the Director of OECR/Title IX Coordinator, will also implement any appropriate and reasonable remedial measures. Both a Complainant and Respondent may appeal the determination of the Vice President of Human Resources as provided in the Appeals section below.

a. Notice of Hearing

The Complainant and the Respondent will receive an Administrative Hearing notice from the Hearing Officer ten (10) days prior to the hearing, which will provide the following:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential Sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus or employment activities.
- Any technology that will be used to facilitate the hearing.
- Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- Notification that the Parties may have the assistance of an Advisor of their choosing at the hearing.
- An invitation to each Party to submit to the decision maker an impact statement pre-hearing that the decision maker will review during any Sanction determination.
- An invitation to contact Human Resources to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether Parties can/cannot bring mobile phones/devices into the hearing.

A Complainant or a Respondent in receipt of an Administrative Hearing notice is required to respond to the notice as outlined in the letter. Parties are expected to respond within twenty-four (24) hours of receipt of a hearing notice to schedule a time to meet with the Hearing Officer. All hearing notifications will be sent via Arcadia University email and it is expected that Parties will be checking their Arcadia email daily. Failure to respond to the Hearing Officer may result in decisions being made regarding an employee’s involvement in an alleged violation without their input.

ii. Alternative Hearing Participation Options

If a Party or Parties prefer not to attend or cannot attend the hearing in person, the Party should request alternative arrangements from the Vice President of Human Resources at least five (5) business days prior to the hearing.

The Vice President of Human Resources can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot

appear in person. Any witness who cannot attend in person should let the Director of OECR/Title IX Coordinator or the decision maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

c. Pre-Hearing Preparation

The Vice President of Human Resources, after any necessary consultation with the Investigator(s), and/or Director of OECR/Title IX Coordinator, will provide the names of persons who will be participating in the hearing. The Vice President of Human Resources will notify the Investigator for that case to provide all pertinent documentary evidence, and the final investigation report to the Parties at least ten (10) business days prior to the hearing.

The Vice President of Human Resources will contact any witnesses to request their participation in the hearing. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all Parties and the decision maker assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the Parties and decision maker do not assent to the admission of evidence newly offered at the hearing, the decision maker will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

During the ten (10) business day period prior to the hearing, the Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the decision maker at the pre-hearing meeting or at the hearing and will be exchanged between each Party by the decision maker.

d. Prehearing Meetings with Complainant and Respondent

Prior to the hearing, the Vice President of Human Resources will contact the Complainant and Respondent to schedule meetings with each Party individually.

At these prehearing meetings, the Director of OECR/Title IX Coordinator and the Vice President of Human Resources 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 and/or Respondent to this meeting.

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 Vice President of Human Resources at least five (5) business days prior to the hearing. The Vice President of Human Resources shall be the sole authority for determining whether good cause exists to reschedule the hearing.

f. Consolidation of Hearings

The Vice President of Human Resources, in their 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.

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 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.

h. Identification of Witnesses

The Complainant, Respondent, and the Hearing Officer 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 five (5) business days before the hearing to the Vice President of Human Resources via e-mail:

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

The Hearing Officer 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 Director of OECR/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 Vice President of Human Resources will provide the Respondent and Complainant with a list of witnesses and any relevant documents related to their appearance at the hearing no later than seven three (7) business days before the hearing. The burden is not on the Respondent to prove that they are not responsible for the alleged violations(s).

i. 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 their absence at the discretion of the 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.

j. 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 Hearing Officer are: the Complainant(s), the Respondent(s), any individuals serving as Advisors, the Investigator, and any individuals who appear as witnesses. Moreover, the Director of OECR/Title IX Coordinator may attend any hearing.

k. 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 their version of events and for the Hearing Officer 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 hearing to assess and, as appropriate, take disciplinary action and implement appropriate remedies regarding a violation of University policy or regulation.

The Hearing Officer 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(s), the Respondent(s), Investigator(s) and witnesses.

The Hearing Officer 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 Hearing Officer in prioritizing areas of inquiry. The Hearing Officer, 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 Hearing Officer 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 their own account of the events in a narrative format. The Hearing Officer may pose questions to the Complainant. The Respondent is encouraged to compile a written list of questions that they would like to pose to the Complainant. The list will be provided to the Hearing Officer, 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 directly or indirectly address 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 their own account of the events in narrative format. The Hearing Officer may pose questions to the Respondent. The Complainant is encouraged to compile a written list of questions that they would like to pose to the Respondent. The list will be provided to the Hearing Officer, 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 directly or indirectly address 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 Hearing Officer. 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 Hearing Officer, who will determine the relevance of the questions and pose any questions deemed relevant.

The Hearing Officer, 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.

1. Questioning Witnesses

It is the responsibility of the Hearing Officer to ensure that the information necessary to make an informed decision is presented. The Hearing Officer may play an active role in questioning both Parties and witnesses involved in the case. The Hearing Officer 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 Hearing Officer in writing, which may be posed at the discretion of the Hearing Officer.

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

2. Recording Hearings

Hearings (but not deliberations) are recorded by the University for the purpose of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted.

The decision maker, the Parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Director of OECR/Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Director of OECR/Title IX Coordinator.

3. Deliberation

After all of the information has been presented, all Parties will be dismissed from the hearing room so that the Hearing Officer may deliberate in private. The Hearing Officer will make a determination using the preponderance of the evidence (“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 Findings of the Hearing Officer will be reduced to writing in deliberation statement. The deliberation statement will detail the Findings of fact and the basis/rationale for their decision, making reference to the evidence that led to the Finding.

4. Preponderance of the Evidence

The Hearing Officer will determine a Respondent’s responsibility by a preponderance of the evidence. This means that the Hearing Officer 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).

1. Sanctions

If the final finding is that Respondent violated the Non-Discrimination and Non-Harassment Policy or the

Policy Prohibiting Sexual Harassment and Sexual Misconduct, the Vice President of Human Resources may impose Sanctions on the Respondent. For faculty Respondents, the President (or their designee) will make the Sanctioning decision. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free of Prohibited Conduct, the Policy provides the Vice President of Human Resources with wide latitude in the imposition of Sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the Complainant and surrounding community, and accountability for the Respondent. The imposition of Sanctions is designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe Sanctions, including suspension or termination from the University.

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 them, and/or requested Sanctions and remedies. These statements will be reviewed by the Vice President of Human Resources only if the Respondent is found responsible, and not until then.

Each incident is reviewed on an individual basis. Depending on the specifics of the incident, more or less severe Sanctions may be imposed. In determining the appropriate Sanction, the Vice President of Human Resources shall consider the following factors:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for Sanctions to bring an end to the conduct
- The need for Sanctions to prevent the future recurrence of the conduct
- The need to remedy the effects of the conduct on the Complainant and the community
- The impact of the incident on the Parties
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate Resolution in each case.

Sanctions that may be imposed under this policy include:

- Warning – Verbal or Written
- Performance Improvement Plan
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Assignment to a new supervisor
- Suspension with pay
- Suspension without pay
- Termination

Other Sanctions may be imposed instead of, or in addition to, those specified here. More than one of the Sanctions listed above may be imposed for any single violation.

Sanctions for staff will be imposed in accordance with the [Progressive Discipline Policy](#). Imposition of Sanctions for non-bargaining unit faculty will be made in accordance with the [Faculty Handbook](#). Adjunct faculty Sanctions will be made in accordance with the collective bargaining agreement.

Any Sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or reinstated, subject to the same supportive measure procedures above.

If any of the Sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

m. Notice of the Outcome

The Vice President of Human Resources will communicate the deliberation statement 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 deliberation statement will be final and communicated to the Parties within ten (10) business days from the date the hearing is concluded. The Respondent will be informed of any Sanctions if found responsible, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the Sanction.

II. APPEALS

Any Party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Vice President of Human Resources within five (5) days of the delivery of the Notice of Outcome.

The Complainant and/or Respondent may appeal only the parts of the determination of responsibility directly relating to themselves. The appeal shall consist of a plain, concise written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. Each Party will be notified if the other Party files an appeal, will be given an opportunity to review the appeal and supporting documentation, and may submit a written response to the appeal within five (5) business days. At the discretion of the Vice President of Human Resources, an appeal will be assigned to the University Provost (or their designee), who will act as the Appellate Officer. The Appellate Officer shall hear appeals on the following grounds:

a. Severity of the Sanction imposed: To determine whether the Sanction(s) imposed was appropriate for the violation of the policy of which the employee was found in violation.

b. Improper procedure: A substantive or procedural error(s) occurred at the time of the adjudication that had a material impact on the outcome of the adjudication.

c. 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.

Dissatisfaction with the outcome of the hearing is not grounds for 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 Grievance Process. It is not an opportunity for the Appellate Officer to substitute their judgment for that of the Hearing Officer. In reviewing an appeal, the Appellate Officer will consider the merits of the appeal only on the basis of the three 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 Sanctions, 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 adjudicator, to be designated by the Director of OECR/Title IX Coordinator from inside or outside of the University; or
 - If the Appellate Officer grants the appeal because of new evidence, the Appellate Officer can recommend that the case be returned to the original Judicial Board or external adjudicator or Administrative Hearing Officer to assess the weight and effect of the new evidence and render a determination after considering the new evidence, or, in certain circumstances, assign to an Investigator for a new investigation or supplement thereof.

The Director of OECR/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 (10) business days from the date of the submission of all appeal documents by both Parties. Appeal decisions are final.

Non-bargaining unit faculty sanctioned with termination should consult section 90.28 of the Faculty Handbook for additional process which may be available after the processes described herein have been exhausted.

TCGS Addendum for Procedures

The below information applies to individuals that are enrolled in TCGS domestically (such as Virtual Europe, Intern Philly, students participating in international programs domestically for emergency reasons) and individuals that are enrolled in TCGS programs abroad.

I. HEARING PROCEDURES FOR TCGS PARTICIPANTS

For matters where all parties (Complainant(s) and Respondent(s)) are participants in TCGS programs abroad, Arcadia will use the hearing procedures provided in **Appendix B**. In matters where one party is a participant in a TCGS program abroad and the other party is a participant in a domestic TCGS or Arcadia program, the decision regarding what Policy and Procedure will apply will be made by the Director of OECR/Title IX Coordinator based on a totality of the circumstances.

II. EMERGENCY REMOVAL FOR TCGS PARTICIPANTS

Upon receipt of a report or other Notice of an alleged violation of the Policy Prohibiting Sexual Harassment and Sexual Misconduct by a participant in a TCGS program abroad⁴ who is not a full-time Arcadia student, the Director of OECR/Title IX Coordinator, in conjunction with the Dean of Students, or their designee, in consultation with other individuals at the Director of OECR/Title IX Coordinator's discretion, will assess whether the reported misconduct poses a risk of harm to individuals or the TCGS community abroad. If so, the Director of OECR/Title IX Coordinator will take the necessary steps to address those risks.

The University can act to remove a TCGS Respondent entirely or partially from its program abroad on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the safety or wellbeing of any student or other individual justifies removal. This risk analysis is performed by the Director of OECR/Title IX Coordinator in conjunction with the Dean of Students, or their designee, in consultation with other individuals at the Director of OECR/Title IX Coordinator's discretion.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action via an emailed letter. Once emergency removal is imposed, the TCGS participant may be denied access to TCGS property abroad, may not participate in their coursework, or be otherwise stripped of TCGS privileges pending the outcome of the disciplinary hearing, unless noted in the emergency removal letter. Violation of an emergency removal will be independent grounds for discipline, which may result in Sanctions up to and including permanent removal from the program.

III. HOME INSTITUTION/HOST INSTITUTION/PARENTAL NOTIFICATION

The University may notify a student's Home Institution, Host Institution, and/or parents about conduct that constitutes a violation of the University's Policy after a Notice of Investigation is issued to the student. In situations where the alleged violation of the University's Policy involves a student's health or safety, the Deputy Title IX Coordinator and Director of Health, Safety, and

⁴ Participants in domestic TCGS programs will be subject to the emergency removal process provided on pages 6-7 of these Procedures.

Security and Director of Student Services will report the allegation to the Respondent's Home Institution or Host Institution.

IV. DISCIPLINARY SANCTIONS

TCGS may share information regarding sanctions with the Respondent's Home Institution or Host Institution. Information will only be shared with a student's Home Institution or Host Institution after an assessment is completed by the Director of OECR/Title IX Coordinator that shows that the student could potentially pose a risk to the Home Institution or Host Institution.

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