Sexual Misconduct Policy
October 2026

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Nothing in this Policy is intended to create or define the terms of a contract between Palm Beach Atlantic University and any student, employee, independent contractor, vendor, or other individual or entity. The University reserves the right to alter, amend, or deviate from the provisions and procedures in this Policy at any time, with or without notice to the University community.

SEXUAL MISCONDUCT POLICY

POLICY STATEMENT

Palm Beach Atlantic University ("PBA" or the "University") is deeply committed to creating and sustaining an educational, working, and living environment that is conducive to learning and scholarship and is supportive of students and employees. Part of this commitment is fostering a campus free of Sexual Misconduct in all forms.

This Policy outlines the University's community expectations to ensure a campus free from Sexual Misconduct, the steps for recourse for those individuals who have been subject to Sexual Misconduct, and the procedures for determining whether a violation of University policy has occurred. This Policy applies to the following forms of sex discrimination, which are referred to collectively as "Sexual Misconduct": Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. For the University's general nondiscrimination policy, *Non-discrimination and Harassment Policy*. Allegations of sex discrimination that do not involve Sexual Misconduct will be handled in accordance with the *Non-discrimination and Harassment Policy*. Where the content of this Policy conflicts with other similar policies set forth in the student and/or Faculty and Employee handbooks, the requirements of this Policy shall prevail.

This Policy supersedes any previous policy(ies) regarding sexual misconduct and/or retaliation under Title IX and will be reviewed and updated, as needed, by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect, and shall be applicable immediately to faculty, staff and students, with or without notice. If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

PBA is a Christian university dedicated to equipping students to grow in wisdom, lead with conviction and serve God boldly. We uphold Biblical principles, including those related to sexual purity. We believe in the divine inspiration of the Bible, that the physical and emotional intimacy of sex is designed beautifully and specifically to unite a couple living in a loving marital, lifelong commitment to each other. While aspects of our policy may reference intimate or sexual activities outside of marriage, this is not an endorsement of such actions. We do not condone any form of sexual misconduct against any individual. PBA is committed to ensuring a safe environment for everyone and will address all instances of sexual misconduct regardless.

I. NOTICE OF NON-DISCRIMINATION

In accordance with applicable federal and state laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act and ADA Amendments, the University does not unlawfully discriminate on the basis of sex, race, color, national origin, religion, age, disability, marital status, genetic information, veteran status, citizenship status, ancestry, or any other protected status under federal, state or local law applicable to the University, in its education programs and activities, in employment policies and practices, and all other areas of the University. As a faith-based institution, the University is exempted from certain laws and regulations concerning discrimination. The University maintains the right, with regard to admissions, enrollment, employment, and other matters, to uphold and apply its religious beliefs related to, among other issues, marriage, sex, gender identity, sexual orientation, and sexual activity.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The University is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual's sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently in an education program or activity. Sexual harassment is a form of sex discrimination. In accordance with Title IX and its regulations, this Policy addresses the University's prohibition of the following forms of sex discrimination: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation.

The University prohibits illegal sex discrimination and Sexual Misconduct in any form. The University will promptly and equitably respond to all reports of sex discrimination and Sexual Misconduct.

Questions or concerns about Title IX, sex discrimination, Sexual Harassment, or other forms of Sexual Misconduct may be directed to the University's Title IX Coordinator:

Cara Wald
Title IX and Section 504 Coordinator
901 S. Flager Drive
West Palm Beach, FL 33401
(561) 803-2198
TitleIX@pba.edu

Questions or concerns may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
Facsimile: (202) 453-6012
Email: OCR@ed.gov
http://www.ed.gov/ocr

II. SCOPE

This Policy applies to all University community members, including but not limited to, students, employees, faculty, administrators, staff, applicants for admission or employment, and third parties, such as trustees, volunteers, vendors, independent contractors, visitors, and any individuals or entities that do business with the University or are regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University or on University property. This Policy may also apply to individuals who interact with University community members under certain circumstances. All University community members are required to follow University policies and local, state, and federal law.

This Policy applies to Sexual Misconduct committed by or against a University community member, including conduct occurring on campus or University property, conduct that occurs at University-sanctioned events or programs that take place off campus, such as study abroad and internships, and off campus conduct that may (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a University community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in the Section V, "Prohibited Conduct," below and more information about the process applicable to different types of Sexual Misconduct is provided in the Section IX, "General Provisions for Complaint Resolution Process," below.

This Policy applies to Sexual Misconduct committed against any person, regardless of the sexual orientation or gender identity of any of the parties. Although the University maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the University has no tolerance for any form of Sexual Misconduct committed against any individual, regardless of the

individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of Sexual Misconduct, including Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation, even when the individual has a concern that they have engaged in conduct that may violate provisions of the University's Community Life Covenant relating to sexual activity. See Section VIII.E, "Amnesty" below for more information.

III. TITLE IX COORDINATOR AND TITLE IX TEAM

The Title IX Coordinator is responsible for the coordination of the University's Title IX compliance efforts, including the University's efforts to end Sexual Misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the University's overall compliance with Title IX-related policies and developments and the administration of this Policy; the implementation of complaint resolution processes, including investigation and adjudication of all formal complaints of Sexual Misconduct; the provision of educational materials and training for the campus community; and all other aspects of the University's Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring University policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent or another individual, about the procedural options and processes used by the University and about resources available at the University and in the community;
- Training and assisting University employees regarding how to respond appropriately to a report of sex discrimination or Sexual Misconduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the University's climate and culture take place;
- Coordinating the University's efforts to identify and address any patterns or systemic problems revealed by reports and formal complaints;
- Recordkeeping of all incidents reported to the Title IX Coordinator;
- Complying with written notice requirements of the Violence Against Women Act; and
- Assisting in answering any other questions related to this Policy.

Questions regarding this Policy should be directed to the Title IX Coordinator:

Cara Wald
Title IX and Section 504 Coordinator
901 S. Flager Drive
West Palm Beach, FL 33401
(561) 803-2198
TitleIX@pba.edu

The University's Title IX Team includes appointed staff and faculty designees. These team members have a shared responsibility for consulting with, and supporting, the Title IX Coordinator and may serve as the Title IX Coordinator's designee. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee. Members of the team may also be called upon to investigate or adjudicate formal complaints of Sexual Misconduct, decide appeals, and/or facilitate informal resolutions to formal complaints. The Title IX team includes but is not limited to:

Cara Wald
Title IX and Section 504 Coordinator
901 S. Flager Drive
West Palm Beach, FL 33401
(561) 803-2198
TitleIX@pba.edu

The University also reserves the right to outsource actions under this Policy to third parties, including actions of the Title IX Coordinator, investigator(s), Title IX Hearing Panel/adjudicator(s), and appeal officer(s).

IV. DEFINITIONS

Complainant refers to an individual who is alleged to be the victim of conduct that could violate this Policy.

Respondent refers to an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

A **report** is an account of Sexual Misconduct that has allegedly occurred that has been provided to the University by the complainant, a third party, or an anonymous source.

A **formal complaint** is a document filed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the University investigate the allegation of the Policy

violation. A formal complaint begins the complaint resolution process as set forth in Section IX, "General Provisions for Complaint Resolution Process," below.

Sexual Misconduct as used in this Policy means the following forms of sex discrimination and other misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Stalking, Domestic Violence, Dating Violence,[1] and Sexual Exploitation, as each of those terms is defined below in Section V, "Prohibited Conduct."

Inculpatory evidence is a statement or other evidence which tends to establish that a respondent has engaged in Sexual Misconduct in violation of this Policy.

Exculpatory evidence is a statement or other evidence which tends to establish that a respondent has not engaged in Sexual Misconduct in violation of this Policy.

V. PROHIBITED CONDUCT

The University prohibits the following forms of Sexual Misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each term is defined below. Aiding others in acts of Sexual Misconduct also violates this Policy.

A. Title IX Sexual Harassment

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in the University's education program or activity and (2) against a person in the United States.

i. **Title IX Quid Pro Quo Harassment:** Title IX Quid Pro Quo Harassment occurs when an employee of the University, including a student-employee, conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

ii. **Title IX Hostile Environment Harassment:** Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

[1] Some instances of Domestic Violence, Dating Violence, and Stalking may not be sexual in nature. For purposes of this Policy, the term "Sexual Misconduct" encompasses all instances of Dating Violence, Domestic Violence, and Stalking (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment Harassment:

- Sexual flirtations, advances, or propositions;
- Requests for sexual favors;
- Verbal abuse of a sexual nature, obscene language, gender- or sexually-oriented jokes, verbal commentary about an individual's body, sexual innuendo, and gossip about sexual relations;
- The display of derogatory or sexually suggestive posters, cartoons, drawings, or objects, or suggestive notes or letters or e-mails or text messages or in a public space;
- Visual conduct such as leering or making gestures;
- Sexually suggestive comments about an individual's body or body parts, or sexual degrading words to describe an individual;
- Unwanted kissing;
- Touching of a sexual nature such as patting, pinching or brushing against another's body;
- Cyber or electronic harassment of a sexual nature.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom.

iii. **Sexual Assault, Domestic Violence, Dating Violence, and Stalking:** As those terms are defined below (when such conduct occurs (1) in the University's education program or activity and (2) against a person in the United States).

Unwelcome Conduct

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), conduct is **unwelcome** when the individual did not request or invite and regarded it as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that they welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that they object, then the evidence generally will not support a conclusion that the conduct

was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

On the Basis of Sex

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), conduct is **on the basis of sex** when it is sexual in nature or is referencing or aimed at a particular sex.

Reasonable Person

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), **reasonable person** means a reasonable person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

Education Program or Activity

At a minimum, the University's **education program or activity** includes all of the operations of the University, including (1) locations on campus or otherwise owned or controlled by the University, such as residence halls and learning spaces, (2) locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as University athletic events and other University-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by the University. Whether alleged conduct occurred in the University's education program or activity is a fact specific analysis.

B. Non-Title IX Sexual Harassment

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the University also prohibits unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the University's education program or activity, but may nevertheless cause or threaten to cause an unacceptable disruption at the University or interfere with an individual's right to a non-discriminatory educational or work environment, or (3) that did not occur against a person in the United States.[2]

[2] Conduct cannot constitute both Title IX Sexual Harassment and Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of Title IX Sexual Harassment, then that conduct will not be separately analyzed as Non-Title IX Sexual Harassment.

As used in this Policy, Non-Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following definitions.

- Non-Title IX Quid Pro Quo Harassment: Non-Title IX Quid Pro Quo Harassment occurs when an employee of the University, including a student-employee, conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

- Non-Title IX Hostile Environment Harassment: Non-Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; (2) does not occur in the University's education program or activity; or (3) does not occur against a person in the United States. The terms "on the basis of sex," "reasonable person," and "unwelcome conduct" have the same meanings provided above under the definition of Title IX Sexual Harassment.

C. Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for the benefit of anyone other than the one being exploited.[3] Examples of Sexual Exploitation may include, but are not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Taking of or distribution of photographs/images, video or audio recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without consent;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, genitals, buttocks, or breasts, or that is otherwise sexual in nature, without consent;

[3] Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex) without consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Engaging in voyeurism without consent;
- Exposing one's genitals, buttocks, or breasts in non-consensual circumstances;
- Inducing another to expose his or her genitals, buttocks, or breasts in non-consensual circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without his or her knowledge and consent;
- Ejaculating on another person without consent;
- Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

D. Sexual Assault

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, the University also prohibits Sexual Assault that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Sexual Assault is any actual or attempted sexual contact, including penetration and contact with any object, with another person without that person's consent. As used in this Policy, sexual contact includes intentional contact by the accused with the victim's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself with or on any of these body parts. Sexual Assault includes but is not limited to an offense that meets any of the following definitions:

- Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Florida, the age of consent is 18.

Sexual Assault is also prohibited by Florida law. See Section XVII, "State Law Definitions," below for applicable criminal law definitions.

Consent

Consent means words or overt actions by a person in advance clearly communicating a freely given present agreement to participate in a particular sexual contact or activity. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe those words or actions indicate a willingness to participate in a mutually agreed-upon sexual contact or activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that contact or activity.

The definition of consent is subject to the following:

- Consent to one form of sexual contact or activity does not, by itself, constitute consent to any other forms of sexual contact or activity.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual contact or activity for which consent was initially provided must stop.
- Consent is active, not passive. Silence or the absence of resistance or saying "no," in and of themselves, cannot be interpreted as consent.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- Previous relationships or previous consents do not, by themselves, constitute consent to future sexual contact or activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- An existing sexual, romantic, or marital relationship does not, by itself, constitute consent.
- Prior sexual activity with other individuals does not imply consent.
- Consent cannot be procured, expressly or implicitly, by use of force, intimidation, threats, or **coercion**, as that term is defined below.
- An individual known to be—or who should be known to be—**incapacitated**, as defined below, cannot consent to sexual contact or activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- Consent can only be given if one is of legal age. In Florida, the legal age of consent is 18.

Coercion

Coercion is conduct or intimidation that would compel an individual to do something against their will by: (1) the use of physical force, (2) threats of severely damaging consequences, or (3) pressure that would reasonably place an individual in fear of severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain consent from another.

Incapacitation

Incapacitation is the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the ingestion of alcohol or other drugs, incapacitation requires more than being under the influence of alcohol or other drugs; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol and other drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the respondent or a reasonable, sober person in the respondent's position.

Use of drugs or alcohol by the respondent is not a defense against allegations of Sexual Misconduct. Regardless of their own level of intoxication, individuals who are initiating sexual contact are always responsible for obtaining consent before proceeding with sexual activity.

E. Domestic Violence

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, the University also prohibits Domestic Violence that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Domestic Violence includes a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the Florida family or domestic violence laws (or if the crime occurred outside of Florida, the jurisdiction in which the crime occurred).

While not exhaustive, the following are examples of conduct that can constitute Domestic Violence when committed by a current or former spouse or intimate partner of the victim: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.

Domestic violence is also prohibited by Florida law. See Section XVII, "State Law Definitions," below for applicable criminal law definitions related to Domestic Violence.

F. Dating Violence

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, the University also prohibits Dating Violence that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse. For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

Dating Violence is also prohibited by Florida law. See Section XVII, "State Law Definitions," below for applicable criminal law definitions relating to Dating Violence.

G. Stalking

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, the University also prohibits Stalking that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a

hostile environment for community members on campus, University property, or in a University program or activity.

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through others (by any action, method, device, or means), follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

For the purposes of this Stalking definition, not all communication about a person will be considered to be directed at that person.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, and/or email or other electronic communications, including social media;
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth, that would cause a person to feel threatened or intimidated;
- Unreasonably obtaining personal information about the victim.

Stalking is also prohibited by Florida law. See section XVII, "State Law Definitions," below for applicable definitions of criminal stalking.

H. Retaliation and Interference with Process

Retaliation and interference with process is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any

right or privilege secured by Title IX, its regulations, or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered retaliation/interference with process and violate this Policy.

While the University does not prohibit the parties from discussing the allegations in a formal complaint, acts that could constitute retaliation and interference with process may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process, including the live hearing; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation and interference with process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and interference with process may be present against a person even when the person's allegations of Sexual Misconduct are unsubstantiated.

The University is committed to protecting the rights of the complainant, the respondent, and anyone else involved in the complaint resolution process. Any conduct constituting retaliation or interference with process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation or interference to the Title IX Coordinator. For more information, see Section XII, "Complaints of Related Misconduct," below.

I. Consensual Relationship Policy

Relationships between a faculty member and a student, a student and a staff member, or a supervisor and employee (including student supervisors and student employees) are considered professional, and accordingly the initiation of a sexual or romantic relationship within such a professional relationship is against University Policy. Anyone who engages in a sexual or romantic relationship where a degree of power or authority exists must understand that the degree to which such a relationship is truly mutually consensual can be questioned.

The power differential inherent in faculty/student, coach/student, staff/student, and supervisor/employee relationships compromises the subordinate's decision-making ability. For example, the respect and trust accorded a faculty member by a student, as well as the power exercised by the faculty member in giving praise or criticism, grades, and recommendations for further study and future employment, greatly diminish the student's actual freedom of choice should sexual favors be included among the faculty member's demands or requests. The same is true with respect to a staff member or coach and student, and a supervisor and employee.

Faculty and staff members (including student employees) involved in a pre-existing romantic or sexual relationship with a student or employee for whom the faculty or staff member has a supervisory or academic responsibility or who is otherwise under the direction of the faculty or staff member must promptly report the relationship to their supervisor. Upon receiving notice, the University will make alternative staffing arrangements and such other additional arrangements as are necessary under the circumstances.

VI. CONFIDENTIALITY

The University encourages individuals who have experienced Sexual Misconduct to talk to someone about what happened. Privacy and confidentiality have distinct meanings under this Policy. Different people on campus have different legal reporting responsibilities, and different abilities to maintain privacy or confidentiality, depending on their roles at the University.

In making a decision about whom to contact for support and information, it is important to understand that most University employees are not confidential resources, and are therefore obligated to report to the University any information they receive about Sexual Misconduct. Persons who have experienced Sexual Misconduct are encouraged to consider the following information in choosing whom to contact for information and support, and are encouraged to ask about a person's ability to maintain confidentiality before offering any information about alleged Sexual Misconduct.

A. Confidential Resources

The University recognizes that some individuals may wish to keep their concerns confidential. If an individual chooses not to pursue action either within the University disciplinary process or the criminal justice system, the individual may still wish to speak with a confidential resource. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the physical abuse, sexual abuse, or neglect of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of Sexual Misconduct to be kept confidential should speak with a medical professional, professional counselor, minister or other pastoral counselor, or trained victims' advocate.

Individuals that desire the details of the incident be kept confidential should contact any of the following confidential resources:

On Campus

- Spiritual Development, (561) 803-2548
- Counseling Center, (561) 803-2576

Off Campus

- Palm Beach County Complainants & Rape Crisis Center 24 Hr. Hotline, (561) 833-7273

A person who speaks to a confidential resource should understand that if the person does not report the concern to a non-confidential resource at the University, the University will be unable to provide certain supportive/interim measures that would require involvement from the University (such as issuing a no-contact directive), conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a formal complaint with the University or report the incident to local law enforcement.

B. Non-Confidential Communications

Non-confidential communications are those communications with any University employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other University employees who become aware of incidents or allegations of Sexual Misconduct have a responsibility to report the matter to the Title IX Coordinator. University employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most University employees cannot promise confidentiality, the University is committed to protecting the privacy of individuals involved in a report of Sexual Misconduct. Allegations of policy violations will be considered private and will only be shared with other University employees on a need to know basis, as permitted by law. The University will keep confidential the identity of any individual who has made a report or filed a formal complaint alleging a violation of this Policy, as well as any complainant, respondent, and witness, except as permitted by law or to carry out the complaint resolution process pursuant to this Policy. The allegations will not be shared with law enforcement without the consent of the individual who has alleged the Sexual Misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 (see Section VIII(B), "Mandatory Reporting Concerning Minors," below for more information) or unless compelled to do so pursuant to a subpoena or court order.

In addition, although the University will strive to protect the privacy of all individuals involved to the extent possible consistent with the University's legal obligations, the University may be required to share information with individuals or organizations outside the University under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the University may be subject to a subpoena or court order requiring the University to disclose information to law enforcement and/or the parties to a lawsuit. In these cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the University's responsibilities under FERPA, as allowed by law.

C. Requests for Confidentiality or Non-Action

When the University receives a report of Sexual Misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the University does not require an individual to begin or participate in a complaint resolution process or to report to local law enforcement. However, based on the information gathered, the University may determine that it has a responsibility to move forward with a complaint resolution process (even without the participation of the complainant).

In a situation in which the complainant requests that their name or other identifiable information not be shared with the respondent, or that no action be taken against the respondent, the Title IX Coordinator will evaluate the request considering the following factors:

- the seriousness of the alleged misconduct;
- the respective ages and roles of the complainant and respondent;
- whether there have been other complaints or reports of Sexual Misconduct against the respondent;
- whether respondent has a history of arrests or records from a prior school indicating a history of Sexual Misconduct;
- whether the alleged Sexual Misconduct was committed by multiple individuals;
- whether a weapon was involved;
- whether the University possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security footage, eyewitness, physical evidence);
- whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol, at a given location or by a particular group); and
- the extent of any threat to the University community.

The University will take all reasonable steps to respond to the report consistent with the request for confidentiality or request not to pursue an investigation made by the complainant, however, the scope of the response by the University may be impacted or limited based on the nature of the complainant's request. The University will likely be unable to conduct an investigation into the particular incident or to pursue disciplinary action against the respondent and also maintain confidentiality. Action while honoring the complainant's request could include steps to limit the effects of the alleged Sexual Misconduct and prevent its recurrence that do not involve an investigation or disciplinary action against the respondent or reveal the identity of complainant.

The University will strive to accommodate the complainant's request for confidentiality or non-action in most cases, to the extent possible consistent with the University's legal obligations. There may be times when, in order to provide a safe, non-discriminatory environment for all students and employees, the University may not be able to honor a complainant's request for confidentiality or non-action. The presence of one or more of the factors above could lead the University to move forward with a complaint resolution process (even without the participation of the complainant). In this instance, the

Title IX Coordinator will inform the complainant about the chosen course of action, and may, at the complainant's request, communicate to the respondent that the complainant asked the University not to investigate and that the University determined it needed to do so. A complainant can choose not to participate in any complaint resolution process.

In instances where the University moves forward with a complaint resolution process without the participation of the complainant, the complainant will have the same rights as provided to a complainant under this Policy, even if the individual did not sign the formal complaint.

D. Clery Act Reporting and Timely Warning

The University is obligated to provide the University community with general information regarding incidents of sexual violence and other crimes occurring on campus. However, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. As required by federal law, the University includes statistics about certain offenses in its annual security reports and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. To ensure that a complainant's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator and/or Chief of Public Safety will describe the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify the complainant or respondent in the context of the incident report.

In addition, the Clery Act requires the University to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the complainant.

In completing recordkeeping and issuing timely warnings, the University will protect a complainant's confidentiality to the extent possible even if the complainant does not specifically request confidentiality.

VII. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

The University seeks to support any person adversely impacted by Sexual Misconduct. Both the University and the West Palm Beach community provide a variety of resources to assist and support individuals who have experienced Sexual Misconduct or are affected by allegations of Sexual Misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the University or to law enforcement.

Support services that may be available include, but are not limited to, connecting the individual with appropriate on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in the Section IX(G), "Supportive/Interim Measures," below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource.

The University will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community.

A complete description of University and community resources, both confidential and non-confidential, and additional information regarding what to do if you experience Sexual Misconduct is provided in Section XIV, "Resources," at the end of this Policy and on the University's website. Individuals who believe they have been subjected to any form of Sexual Misconduct are encouraged to seek support from these resources.

VIII. REPORTING SEXUAL MISCONDUCT

A. Reporting to the University

The University encourages anyone who has experienced or knows of Sexual Misconduct to report the incident to the University. An individual may report Sexual Misconduct to the University by contacting the following:

- Cara Wald, Title IX and Section 504 Coordinator
  - (561) 803-2198
  - TitleIX@pba.edu
- Department of Public Safety
  - (561) 803-2500 (24 hours)

Reports can be made by telephone, via email, via mail, or in person. Reports may be made at any time, including non-business hours by phone, email, mail, or the University's website.

Reports to the University should include as much information as possible, including the names of the complainant, respondent, and other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the University to respond appropriately.

Upon receiving a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. In addition, when a student or employee reports to the University that they have been a victim of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, whether the offense occurred on or off campus, the University will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures victims should follow.

If an individual has made a report to a University employee who is not a confidential resource and has not yet heard from the Title IX Coordinator, please report directly to the Title IX Coordinator.
The individuals listed above – the Title IX Coordinator, and the Chief of Public Safety, along with the President, the Provost, the Vice President for Student Development, and the Vice President for Human Resources, are considered officials with authority to institute corrective measures on behalf of the University.

B. Employee Reporting Obligations

All University employees who are not confidential resources and who obtain or receive information regarding possible Sexual Misconduct must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator.

Incidents that must be reported by University employees include:

- Incidents personally observed;
- Incidents that are reported to the employee; and
- Incidents of which the employee otherwise becomes aware.

Such reports should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the complainant, respondent, and others involved in the incident, as well as relevant facts, including the date, time, and location of any incident.

Employees who receive such reports of Sexual Misconduct should not attempt to "investigate" the allegation or require the complainant/reporting individual to provide all of the details surrounding the alleged misconduct. To the extent the complainant/reporting individual provides details, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible Sexual Misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken, consistent with the complaint resolution process and this Policy.

University employees who are not confidential resources and receive a report of Sexual Misconduct should bring the report directly to the Title IX Coordinator and should not share information about the report with any other individual. If the employee is uncertain whether the information should be reported to the Title IX Coordinator, the employee should seek guidance from the Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report.

Failure of a University employee who is not a confidential resource to report allegations of Sexual Misconduct to the Title IX Coordinator may result in disciplinary action.

a. Mandatory Reporting Concerning Minors

Any University employee who becomes aware of the abuse (physical or sexual) or neglect of a child under the age of 18 on campus or University property or in connection with any University event, program, or activity must report it immediately the Title IX Coordinator. In addition, as a mandatory reporter under Florida law, such individual must also immediately report the abuse or neglect to the Florida Department of Children and Families' Abuse Hotline at 1-800-962-2873. Under Florida law, all persons are mandatory reporters.

b. Reports to Law Enforcement

Some types of Sexual Misconduct prohibited by this Policy, such as Sexual Assault, also constitute criminal conduct. Individuals who believe they may have been subjected to criminal Sexual Misconduct are strongly encouraged to notify local law enforcement authorities or the Department of Public Safety. If the individual requests, campus authorities will assist in notifying law enforcement authorities. The University will, at the direction of law enforcement, provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with criminal conduct that violates this Policy. Individuals also have the option to decline to notify law enforcement.

Individuals may file a criminal complaint and a formal complaint under this Policy simultaneously. Reporting to law enforcement is not necessary for the University to proceed with a complaint resolution process.

If you would like to report Sexual Misconduct to law enforcement, the West Palm Beach Police Department can be contacted by calling 911 or (561) 822-1900.

c. Orders for Protection, Criminal No-Contact Orders, and University No-Contact Directives

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a protective order from a civil court or requesting a no-contact directive from the University.

Orders for Protection

Orders for protection, sometimes called protective orders or restraining orders, are legal orders issued by a state court that provide protection from domestic or family violence, stalking, harassment, or a sex offense. An order for protection can be obtained by a person against a family or household member (which includes people who are dating, have dated, or have engaged in a sexual relationship) who committed acts of domestic or family violence; or against any person, regardless of the relationship, who committed stalking, repeated acts of harassment, or a sex offense. The Florida Judicial Branch is responsible for issuing orders for protection, and one can be obtained through making an application to the country district court where you live, where the abuser lives, or where the abuse happened. Petition forms to seek an order for protection are available at the Clerk's Office located at the Palm Beach County Courthouse or online from the Florida Judiciary website. Forms may be e-filed online or submitted to the clerk at the Palm Beach County Courthouse during business hours at one of several places, including:

- Palm Beach County Main Courthouse, 205 N. Dixie Hwy., West Palm Beach, FL 33401;
- South County Courthouse, 200 W. Atlantic Ave., Delray Beach, FL 33444;
- North County Courthouse, 3188 PGA Blvd., Palm Beach Gardens, FL 33410; or
- West County Courthouse, 2950 15 Room S-100, Belle Glade, FL 33430

Individuals seeking an order for protection may obtain assistance from the Palm Beach County Public Safety Victim Services Department at the Central Courthouse, 205 N. Dixie, Suite 5.1100, 5th floor, West Palm Beach, FL 33401, (561) 355-2418 Option 3, 24 Hour Crisis Hotline (866) 891-7273, https://discover.pbcgov.org/publicsafety/victimservices/Pages/default.aspx.

Criminal No-Contact Orders

Criminal no-contact orders are legal orders issued by a court against a defendant in a criminal proceeding, including for domestic battery, a violent crime, a sex offense, or other crimes involving domestic or family violence. A criminal no-contact order is requested by the prosecutor and may be issued before the end of the criminal case or following a conviction.

University No-Contact Directives

A no-contact directive is a University-issued directive that prohibits one or both parties from communication or contact with another. No-contact directives may be mutual or one-sided. Generally, no-contact directives issued prior to the conclusion of a complaint resolution process will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. To request a no-contact directive from the University, individuals should contact the Title IX Coordinator.

The University is responsible for honoring requests for information about available options for orders for protection and University no-contact directives and has a responsibility to comply with and enforce such orders. To request additional information about available options for orders for protection and University no-contact directives, contact the Title IX Coordinator. An order for protection or criminal no-contact order can be enforced by contacting local law enforcement. A University no-contact directive may be enforced by contacting the Department of Public Safety or the Title IX Coordinator. The University will fully cooperate with any protective order issued by criminal, civil, or tribal court.

d. Amnesty

The University recognizes that sometimes an individual may be reluctant to report an instance of Sexual Misconduct or participate in a complaint resolution process out of concern that other conduct relating to the incident *(e.g.* use of alcohol or drugs or engaging in sexual contact outside of marriage) involves a violation of the University Community Life Covenant. The University's overriding concern is for the safety of its students and employees, and the University strongly encourages all individuals to report any instance of Sexual Misconduct. Therefore, to encourage reporting, an individual who reports a violation of this Policy in good faith or who participates in a complaint resolution process under this Policy will not be disciplined by the University for their own personal possession or consumption of alcohol or drugs or other policy violations in connection with the reported incident, except as outlined in this section.

Amnesty will not apply to engaging in the distribution of illegal drugs. In addition, amnesty may not be extended in instances where any individual is harmed by the conduct constituting a violation of other University policies, where the individual engaging in a violation of another University policy holds a leadership role on campus, including a leadership role over students or employees, or where an employee is engaging in a violation of another University policy with a student. In those cases the University may still pursue disciplinary action for the alleged violation of other University policies. When amnesty is provided, the University may still impose educational or programming requirements or other non-disciplinary prevention measures to assist in avoiding further violations.

e. Emergency Removal

The University reserves the right to remove a student respondent, in whole or in part, from the University's education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the University will undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an emergency basis, the University will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

f. Administrative Leave

The University reserves the right to place a non-student employee respondent on administrative leave during the pendency of the complaint resolution process.

An employee may also be assigned other duties during the pendency of the complaint resolution process.

IX. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS

When the University receives a formal complaint of an alleged violation of this Policy, the University will promptly and equitably respond to the formal complaint in accordance with the provisions and procedures set forth below. The University will provide a fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides complainant an opportunity to file a formal complaint alleging a violation of this Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that is not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the Written Response Statements in response to the investigation report, and through the Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in Section X, "Procedures for Sexual Misconduct Complaint Resolution," below.

Each complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties. The University will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the

same through the investigation phase. Prior to providing access to information at the end of the investigation phase, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, the University reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

A. Trained Officials

Each complaint resolution process will be conducted by individuals, including coordinators, investigators, Title IX Hearing Panel members/adjudicators, and any person who facilitates an informal resolution process, who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent. In addition, those individuals will receive annual training on the definition of Title IX Sexual Harassment; the scope of the University's education program or activity; how to conduct an investigation and complaint resolution process, including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; issues related to sexual harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Title IX Hearing Panel members will receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The training is free of bias such as sex stereotypes or generalizations, promotes impartial investigations and adjudications, and includes the following topics, as applicable: relevant evidence and how it should be used, proper techniques for questioning witnesses, basic rules for conducting proceedings, avoiding actual or perceived conflicts of interest, and the University's policies and procedures.

B. Equal Rights of the Complainant and Respondent

In all Sexual Misconduct complaint resolution processes under this Policy, the complainant and respondent are entitled to:

- Respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- Written explanation of available resources;

- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt and impartial complaint resolution process conducted by officials who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and defenses and an opportunity to respond;
- Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- Timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;
- The right to appeal the decision or dismissal of a formal complaint in certain circumstances, as discussed in Section X(F)(vii), "Appeals," below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so;
- The right to be free from retaliation as defined in this Policy.

C. Additional Rights in Cases Involving Allegations of Title IX Sexual Harassment

In cases involving allegations of Title IX Sexual Harassment the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section IX(E), "Right to an Advisor," below for additional information and requirements regarding the conduct of advisors.
- The parties will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth in Section X(F)(ii), "Access to Information," below.

- The parties will be provided with the investigation report in electronic format or hard copy for their review and written response, as set forth in Section X(F)(ii), "Access to Information," below.
- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in Section X(F)(iii)(a), "Live Hearing," below.

D. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States

In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, *occurring outside* of the education program or activity or against a person *outside* of the United States, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section IX(E), "Right to an Advisor," below for additional information and requirements regarding the conduct of advisors.
- The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in Section X(F)(ii), "Access to Information," below.

E. Right to an Advisor

The complainant and the respondent in a complaint resolution process (both the informal and formal resolution processes) involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking *occurring outside* of the University's education program or activity or against a person *outside* of the United States, have the right to be accompanied to meetings by an advisor of their choice, who may be, but is not required to be, an attorney. Generally, the advisor selected by the complainant or respondent should be free of conflicts of interest in the complaint resolution process and, if a member of the University community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process.

Guidelines and requirements for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings throughout the complaint resolution process. In selecting an advisor, each party

should consider the potential advisor's availability to attend interviews and meetings, which may occur in-person. As a general matter, the University will not delay its process to accommodate the schedules of advisors.

- Advisors may confer with their advisee, but, with the exception of live hearings for cases involving allegations of Title IX Sexual Harassment (discussed below), advisors may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the University. The advisor may not communicate directly with the investigator(s), Title IX Hearing Panel/adjudicators, appeal officer(s), the Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- In complaint resolution processes involving allegations of Title IX Sexual Harassment:
    - At the live hearing, advisors will be permitted to ask the parties and any witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in Section X(F)(iii)(a), "Live Hearing," below.
    - Advisors will receive a hard copy or electronic format of all directly related evidence and the investigation report, as set forth in Section X(F)(ii), "Access to Information," below.
- In complaint resolution processes involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the University's education program or activity or against a person *outside* of the United States:
    - Advisors may have access to information as is described further below in Section X(F)(ii), "Access to Information," below.
- Individuals involved in the process other than a complainant or respondent, such as witnesses, generally will not be allowed to have an advisor present absent special circumstances as allowed by law.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify the Title IX Coordinator who they have selected as their advisor. Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor.
- The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor and will indicate whether the other party's advisor is an attorney.

F. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The University will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the University may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the complaint resolution process.
- Providing an interpreter for individuals who are limited English-language proficient.

G. Supportive/Interim Measures

After receiving a report of alleged Sexual Misconduct, the Title IX Coordinator will consider whether supportive/ interim actions, accommodations, or protective measures are reasonably necessary or appropriate to protect the parties and the broader University community. Such supportive/interim measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or to deter sexual harassment.

The University will provide written notification to affected individuals about options for, available assistance in, and how to request changes to academic, living, transportation and working situations, or protective measures. The University will comply with a student's reasonable request for a living and/or academic situation change following an alleged incident of Sexual Misconduct. The University will make such accommodations and provide such protective measures, with or without a formal complaint, even when an individual asks to keep a reported violation of this Policy confidential or requests that the University not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of possible supportive/interim measures include, without limitation:

- Establishing a "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing an individual's on-campus residency, dining, or transportation arrangements;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cell phone;

- Access to counseling and medical services;
- Making information about protective orders and criminal no contact orders available and providing assistance with respect to obtaining and enforcing such orders;
- Assistance in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services, legal assistance, visa and immigration assistance, and student financial aid.

The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the individual. The Title IX Coordinator will be responsible for determining what measures will be put in place.

To request an accommodation or interim measure, individuals should contact the Title IX Coordinator.

The University will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. The University will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The University will inform the individual before sharing personally identifying information that the University believes is necessary to provide an accommodation or protective measure. The University will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Additional services are available on campus and/or in the community, as described in the Section XIV, “Resources,” at the end of this Policy and on the University's website.

Any concern about a violation of a supportive interim measure should be reported to the Title IX Coordinator promptly. Complaints of a violation of a supportive/interim measure will be handled as discussed in Section XII, “Complaints of Related Misconduct,” below.

H. Non-Participation and Silence

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the University may still proceed with the complaint resolution process and make a determination based upon the information available. If at any time the complainant declines to

participate in the process, the University's ability to meaningfully investigate and adjudicate a complaint may be limited. In such cases, the University will proceed with the complaint resolution process, if possible to do so without the complainant's participation, and will make a determination based upon the information available. The respondent also has the right to decline to participate in the complaint resolution process. In such cases, the University will proceed with the complaint resolution process and will make a determination based upon the information available. A complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Similarly, a respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed.

Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

I. Obligation to Act in Good Faith

Reports and formal complaints of alleged Sexual Misconduct should be made only in good faith. Reports and formal complaints that are not made in good faith may be considered retaliation under this Policy and/or may violate other University policies, including but not limited to, those contained in the staff, faculty, and student handbooks.

An allegation that a person has violated the obligation to act in good faith will be handled through the procedures identified below in Section XII, "Complaints of Related Misconduct."

J. Obligation to Be Truthful

All parties and witnesses have an obligation to be truthful in this process. Engaging in dishonesty may be considered retaliation or interference with process under this Policy and/or violate other University policies, including but not limited to those contained in the staff and faculty policy manuals and student handbook. Comments or actions intended to influence other individuals to not be truthful in the complaint resolution process may also violate this Policy and/or other University policies. An allegation that a person has violated the obligation to be truthful will be handled through the procedures identified in Section XII, "Complaints of Related Misconduct," below.

K. Conflicts of Interest and Bias

If a complainant or respondent has any concern that any individual acting for the University under this Policy has a conflict of interest or bias, for or against complainants or respondents generally or for or against the individual complainant or respondent, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or adjudicating a complaint under this Policy.

If complainant or respondent has any concern that the Title IX Coordinator has a conflict of interest or bias, such concern should be reported in writing to the Provost. If the Title IX Coordinator has a conflict of interest or bias with respect to a formal complaint, the Provost shall appoint another person to oversee adherence to the Sexual Misconduct Policy with respect to the formal complaint at issue.

The parties should be mindful that the University has a small and close-knit campus community. That a party simply knows an individual acting for the University under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the University encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

L. Time Frames for Resolution

The University is committed to the prompt and equitable resolution of allegations of Sexual Misconduct. As is discussed in more detail above and below, different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases of alleged Sexual Misconduct. The time frames for each phase of the different procedures are as follows:

A. Cases Involving Allegations of Title IX Sexual Harassment

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of Title IX Sexual Harassment are set forth in Section X, “Procedures for Sexual Misconduct Complaint Resolution,” below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Review of directly-related evidence and investigator consideration of evidence response statements: seventeen (17) calendar days
- Review of investigation report and written response: ten (10) calendar days
- Live Hearing and Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

B. Cases Involving Allegations of Other Forms of Sexual Misconduct

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of any other form of Sexual Misconduct are set forth in Section X, "Procedures for Sexual Misconduct Complaint Resolution," below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Review of investigation report and written response/rebuttal, if applicable: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

In any Sexual Misconduct complaint resolution process, the process may include additional days between these phases as the University transitions from one phase to another. The parties will be notified when each listed phase begins and when it ends. If any transition period will last longer than five (5) calendar days, the parties will be notified of the delay and the reason for it.

Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties involved, the addition of new parties or new allegations to an amended notice of allegations, the availability of witnesses, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language assistance or accommodation of disabilities, or other unforeseen circumstance.

In cases where an alleged incident has also been reported to law enforcement, the University will not delay its complaint resolution process in order to wait for the conclusion of a criminal investigation or proceeding. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the University may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. This process typically takes seven (7) to ten (10) calendar days. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation and resolution procedures.

To the extent additional time is needed during any of the phases of the process discussed above and further below, the University will notify all parties of the delay and the reasons for it. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the University may, in its discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged Sexual Misconduct incident. There is no statute of limitation for reporting prohibited conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the University. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the University, in its discretion, may decline to process a complaint under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances of the complaint, and will provide reasonably appropriate supportive/interim measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. If the respondent is still a member of the University community as a student or employee, the complaint generally will be processed under these procedures.

M. Presumption of Non-Responsibility

The presumption is that the respondent is not responsible for a policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a policy violation only if the appointed Title IX Hearing Panel/adjudicators conclude that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sexual Misconduct.

N. Application of Policy

When the University receives a formal complaint of a violation of this Policy, the University will generally apply the sexual misconduct definitions from the policy that was in effect at the time of the alleged misconduct. The complaint resolution procedures applicable to the formal complaint will be those in effect at the time that the report or formal complaint is made. For cases involving allegations of Title IX Sexual Harassment, the University will apply the definitions from the policy that is in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that was in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

O. Reservation of Flexibility

The procedures set forth in this Policy reflect the University's desire to respond to formal complaints in good faith and in compliance with legal requirements. The University recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The University reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

In instances where a formal complaint is made against an individual who is not a student or employee of the University and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the University reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

X. PROCEDURES FOR SEXUAL MISCONDUCT COMPLAINT RESOLUTION

When the University receives a formal complaint of a potential Sexual Misconduct Policy violation, the University will promptly and equitably respond, investigating and adjudicating the formal complaint pursuant to the guidelines and procedures set forth below.

As discussed above in Section IX, "General Provisions for Complaint Resolution Process," different procedures apply to the complaint resolution process depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Further information about the different procedures is provided below.

A. Initial Meeting Between Complainant and Title IX Coordinator

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator. The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or formal complaint; it is not intended to be an investigation interview.

As part of the initial meeting with the complainant, the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation;
- Address immediate needs of the complainant and the campus, in consultation with appropriate campus officials;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of available supportive/interim measures with or without filing a formal complaint;
- Provide the complainant with an explanation of the procedural options, including how to file a formal complaint (if the complainant has not already done so) and the complaint resolution process;
- Advise the complainant of the right to have an advisor of choice, as applicable under this Policy;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the University's policy prohibiting retaliation.

All reports and formal complaints of Sexual Misconduct will be reviewed by the Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks, generally in consultation with certain members of the Title IX team, the Department of Public Safety, and other appropriate University officials at the discretion of the Title IX Coordinator.

If the Title IX Coordinator determines that the report or formal complaint, even if substantiated, would not be a violation of this Policy, they will dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

B. Formal Complaint and Notice of the Allegations

The filing of a formal complaint typically begins the complaint resolution process under this Policy. Generally, the complainant files a formal complaint with the Title IX Coordinator. However, in some cases, the University may move forward with a complaint resolution process even if the complainant chooses not to make or move forward with a formal complaint. Generally, the Title IX Coordinator will make a determination of whether the University will move forward with a complaint resolution process even when the complainant has not filed a formal complaint. If the University decides that it has an obligation to move forward with a complaint resolution process, the Title IX Coordinator will sign the formal complaint and the University will notify the complainant before proceeding. See Section VI(C), "Requests for Confidentiality or Non-Action," above for more information. The Title IX Coordinator signing the formal complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent.

Formal complaints of Sexual Misconduct should be made through the Title IX Coordinator.

When the Title IX Coordinator has received a formal complaint, the Title IX Coordinator will assess the formal complaint to determine if it states any allegations of Sexual Misconduct. If the formal complaint alleges Sexual Misconduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include:

- Notice of the University's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;

- Notice that the parties have the right to an advisor of choice, as applicable under this Policy, who may be, but is not required to be, an attorney;
- Notice that the parties have the right to inspect and review evidence, as applicable under this Policy; and
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including in Section IX(J), "Obligation to be Truthful," above.

If the University decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

In addition, upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process.

When the Title IX Coordinator has received a formal complaint of Sexual Misconduct, the Title IX Coordinator will also meet with the respondent and will:

- Notify the respondent of the complaint and alleged policy violations;
- Provide the respondent an explanation of the complaint resolution process, including the informal resolution process;
- Notify the respondent of the importance of preservation of evidence;
- Notify the respondent of any supportive/interim measures that have been put in place that directly relate to the respondent (i.e., no-contact directive);
- Notify the respondent of available supportive/interim measures;
- Provide the respondent with information about on- and off-campus resources;
- Advise the respondent of the right to have an advisor of choice, as applicable under this Policy; and
- Explain the University's policy prohibiting retaliation.

This stage of initial review of the formal complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days. In some cases, more time may be required.

C. Investigation of Other University Policy Violations

If a formal complaint of Sexual Misconduct also implicates alleged violations of other University policies, the Title IX Coordinator, in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged Sexual Misconduct and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the Sexual Misconduct formal complaint. Where the Title IX Coordinator, in coordination

with other appropriate school officials, determines that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violation will be evaluated under the applicable policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the adjudication of the alleged Sexual Misconduct.

Note that individuals who make a good faith report of Sexual Misconduct, and individuals who participate in a Sexual Misconduct complaint resolution process, will not be disciplined by the University for any violation of University policies in which they might have engaged in connection with the reported incident, except in the limited circumstances discussed in Section VIII.E, "Amnesty," above.

D. Consolidation of Formal Complaints

The University reserves the right to consolidate formal complaints into one complaint resolution process as to allegations of Sexual Misconduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

E. Informal Resolution Process

Following a formal complaint, at any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process. In cases involving allegations of Sexual Assault or more serious Sexual Misconduct, informal resolution may not be appropriate. In addition, in cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate.

If the complainant, the respondent, and the University all agree to pursue an informal resolution, the Title IX Coordinator will attempt to facilitate a resolution that is agreeable to all parties. The Title IX Coordinator will not be an advocate for either the complainant or the respondent in the informal resolution process, but, rather, will aid in the resolution of the formal complaint in a non-adversarial manner. Under the informal process, the University will only conduct such fact-gathering as is useful to resolve the formal complaint and as is necessary to protect the interests of the parties, the University, and the University community.

The University will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process and request a formal complaint resolution process at any time prior to reaching an agreed upon resolution. In addition, the University also always has the discretion to discontinue the informal process and move forward with a formal complaint resolution process. If at any point during the informal resolution process prior to reaching an agreed upon resolution, the complainant or respondent or the University wishes to cease the informal resolution process and to proceed through

the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Prior to engaging in an informal resolution process, the University will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the University will obtain the parties' voluntary, written consent to the informal resolution process.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the University to stop, remedy, and prevent policy violations. Informal resolution may involve the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the University. Examples of potential remedies are provided in the above Section IX(G), "Supportive/Interim Measures," of the Policy. The proposed resolution may also include other institutional responses, requirements, or sanctions imposed on the respondent.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the University terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the formal complaint and the University agree in writing to the terms and conditions of a proposed resolution within seven (7) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the formal complaint and the University do not agree in writing to the terms and conditions of the proposed resolution within seven (7) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the formal complaint will generally be referred to the formal resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary alternative resolution of the matter.

The informal resolution process generally will take no more than fifteen (15) calendar days. In some cases, more time may be required.

F. Formal Resolution Process

If the formal complaint is not processed or resolved through the informal resolution process discussed above, the formal complaint will be processed according to the formal resolution process outlined below.

Investigation

The Title IX Coordinator will designate one or more investigators to conduct a prompt and equitable investigation. The University will ensure that the investigator has received the appropriate training, is impartial, and is free of any conflict of interest or bias for or against complainants and respondents generally and for or against the complainant and respondent in the case. The University reserves the right to appoint any trained investigator who is free of conflict of interest or bias, including a third-party investigator. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has a conflict of interest or bias, the party should report the concern in writing as indicated in Section IX(K), "Conflicts of Interest and Bias," above.

The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include audio-recorded interviews with the complainant, the respondent, and any witnesses. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and questions they believe the investigator(s) should ask the other party or witnesses, including questions challenging credibility. The investigator(s), in consultation with the Title IX Coordinator, has (have) discretion to assess the relevancy of any proposed witnesses, evidence, and questions, and to determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The investigator(s) may also decline to ask a question or questions suggested by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The complainant and respondent will be given equal opportunity to present witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s), in consultation with the Title IX Coordinator, determine(s) otherwise. In cases involving allegations of Title IX Sexual Harassment, all evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

At the conclusion of the investigation, the investigator(s) generally will compile an investigation report that fairly summarizes the relevant evidence. The investigation report may consist of any information, documents, data, or other evidence that will be provided to the Title IX Hearing Panel/adjudicators. At the investigator's discretion, such information may include, as applicable: the formal complaint; the notice of allegations; any other evidence obtained during the investigation; and the investigator's report

of the investigation. The investigation report will be forwarded to the Title IX Coordinator. The Title IX Coordinator will review the investigation report and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report.

The University will strive to complete the investigation within (i) fifty (50) calendar days from the date the investigator is appointed or (ii) if, after the date the investigator is appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, fifty (50) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case. In cases involving allegations of Title IX Sexual Harassment, the University will strive to complete the initial investigation in this 50-day time frame, but the final investigation report will not be completed until after the review of directly related evidence. See Section X(F)(ii), "Access to Information," below for more information.

Access to Information

The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

i. Cases Involving Allegations of Title IX Sexual Harassment

Review of Directly Related Evidence

For formal complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. The Title IX Coordinator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed 2,000 words in length. The Evidence Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigation report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the

statements of others on the party's behalf. The parties may not address each other in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).

The investigator will consider the parties' Evidence Response Statements prior to completion of the investigation report.

All the evidence made available for the parties' review will be available during the hearing.

Review of Investigation Report

For complaints involving allegations of Title IX Sexual Harassment, the Title IX Coordinator will send the investigation report to each party and each party's advisor in electronic format or hard copy at least ten (10) days prior to the live hearing. The parties will have a ten (10) calendar day period to review the investigation report and prepare a written response to the report (the "Written Response Statement"). Each party's Written Response Statement may not exceed 2,000 words in length. The Written Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, or raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties and parties' advisors may use the investigation report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the investigation report with any other individual. Prior to being provided the investigation report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

ii. Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States

For formal complaints involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, *occurring outside* of the education program or activity or against a person *outside* of the United States, the investigation report will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the investigation report and prepare a response to the investigation report, as discussed below.

Both parties will have the opportunity to provide a written response to the investigation report (the "Written Response Statement"). To do so, the party must submit a Written Response Statement, which may not exceed 4,000 words in length, to the Title IX Coordinator. The Written Response Statement must be submitted by the conclusion of the 5-day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and witnesses. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties will have an opportunity to review the Written Response Statement submitted by the other party and, if desired, may submit a rebuttal statement ("Written Rebuttal Statement") not to exceed 2,000 words. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement. The Written Rebuttal Statement may only be used to respond to arguments made in the other party's Written Response Statement and to challenge the credibility of the other party and any witnesses. While the parties may be assisted by their advisors in preparation of the

Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Rebuttal Statement.

The parties will have an opportunity to review the Written Rebuttal Statement submitted by the other party. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Rebuttal Statement. While the parties have the opportunity to review the rebuttal statement of the other party, no further responses are permitted by either party.

The parties and parties' advisors may use the investigation report and written statements of the other party reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report and written statements with any other individual. Prior to being provided the report and written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the Written Response Statements and Written Rebuttal Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

Adjudication

Upon completion of the investigation, the Title IX Coordinator will compile the adjudication file which will be shared with the Title IX Hearing Panel/adjudicators. In cases involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Domestic Violence, Dating Violence, or Stalking *occurring outside* of the University's education program or activity or against a person *outside* of the United States, the parties will be given access to any information that is included in the adjudication file to the extent that it includes additional information that the parties did not review as part of the access to information step discussed above in Section X(F)(ii), "Access to Information."

iii. Cases Involving Allegations of Title IX Sexual Harassment

Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Panel to hold a live hearing and to make a determination regarding responsibility and, if appropriate, sanctions.

The Title IX Hearing Panel will conduct a prompt and equitable live hearing and adjudication.

Appointment of the Title IX Hearing Panel

The Title IX Coordinator will designate a panel of three adjudicators to serve as the Title IX Hearing Panel. The University reserves the right to appoint any trained individuals who are without conflict or bias to the Title IX Hearing Panel, including third-party adjudicators. The Title IX Hearing Panel will not include the Title IX Coordinator or the investigator from the same matter. If any party has a concern that a member of the Title IX Hearing Panel has a conflict of interest or bias, the party should report the concern in writing as indicated in section IX(K) Conflicts of Interest and Bias above.

Live Hearing

At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question at the hearing, the Title IX Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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 in the formal complaint, 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.

All evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available at the hearing.

The hearing will generally be held by videoconference with the parties, witnesses, and Title IX Hearing Panel located in separate locations and technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or the witness answering questions. The University reserves the right to determine that a hearing will instead be conducted with all participants, including the parties, witnesses, and the Title IX Hearing Panel physically present in the same location. In the event that the live hearing is held with the participants in the same location, at the request of either party, the University will provide for the parties to be located in separate rooms with technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or witness answering questions.

The University will create an audio or audiovisual recording, or transcript, of any live hearing and, upon request, will make it available to the parties for inspection and review.

University Appointed Advisors

If a party does not have an advisor present at the live hearing, the University will provide an advisor to the party, without fee or charge to that party, to conduct cross-examination on behalf of that party. If a party will not have an advisor present at the hearing, the party must inform the Title IX Coordinator at least three (3) calendar days prior to the live hearing so that the University may appoint an advisor for the hearing. The appointed advisor's role will be limited to relaying the party's questions to be asked of other parties and witnesses. The appointed advisor shall not perform any function beyond relaying the party's desired questions. The University reserves the right to appoint any individual as the University deems appropriate to act as an advisor at a live hearing, including a third-party advisor. The University's appointment of an advisor is final and a party who refuses to work with an appointed advisor at the live hearing will forfeit his or her right to conduct cross-examination or other questioning at the hearing.

Live Hearing Procedures

Please contact the Title IX Coordinator for additional information about live hearings.

Decision-Making Process

The presumption is that the respondent is not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the Title IX Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct. If the Title IX Hearing Panel determines that the respondent is responsible for a policy violation, the Title IX Hearing Panel will then determine what sanctions and remedies are warranted.

The Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

Lie detector test results will not be considered credible by the Title IX Hearing Panel in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the University or a court of law will generally be given little weight, if any, by the Title IX Hearing Panel in the decision-making process.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of a violation of this Policy—the University may, in its discretion, require the respondent to receive appropriate education and/or training. The University may also recommend counseling or other support services for the respondent.

iv. Cases Involving Allegations of Other Forms of Sexual Misconduct

Upon completion of the investigation in matters involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, the Title IX Coordinator will designate adjudicators to complete a prompt and equitable adjudication. Typically, a panel of three adjudicators will be appointed to each case. The University reserves the right to appoint any trained adjudicators who are free from conflict of interest or bias, including third-party adjudicators. If any party has a concern that the adjudicators have a conflict of interest or bias, the party should report the concern in writing as indicated in Section IX(K), "Conflicts of Interest and Bias," above.

Adjudicators will review the adjudication file. The adjudicators may, in their discretion, request additional information from the investigator(s) or another appropriate individual, or request additional investigation by the investigator(s). In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that *occurred outside* of the education program or activity or against a person *outside* of the United States), if such information is shared with the adjudicators, the parties will be notified and provided access to that information.

The presumption is that the respondent is not responsible for a Policy violation. The respondent will be deemed responsible for a policy violation only if the adjudicators conclude that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct.

Lie detector test results will not be considered credible by the adjudicators in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the University or a court of law will generally be given little weight, if any, by the adjudicators in the decision-making process.

If the adjudicators determine that the respondent is responsible for a policy violation, they typically will then determine what sanctions and remedies are warranted. The Title IX Coordinator has discretion to appoint a different sanctioning officer as he or she determines appropriate. The University reserves the right to appoint any trained sanctioning officer who is free from conflict of interest or bias, including third-party sanctioning officers. As part of that determination of sanctions/remedies, the Title IX Coordinator may, in his or her discretion, provide the adjudicators/sanctioning officer with information regarding previous violations of this Policy or other University policies by the respondent, if any. In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that occurred outside of the education program or activity or against a person *outside* of the United States), if such information is shared with the adjudicators/sanctioning officer, the parties will be notified and provided access to that information.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct — for example, inappropriate remarks that do not rise to the level of a violation of this Policy — the University may, in its discretion, require the respondent to receive

appropriate education and/or training. The University may also recommend counseling or other support services for the respondent.

G. Sanctions and Remedies

The Title IX Hearing Panel/adjudicators will impose sanctions and/or remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The University reserves the right to take whatever measures it deems necessary in response to an allegation of Sexual Misconduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other University community members. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational or workplace opportunities) or sanctions (involving action against a respondent). Not all forms of Sexual Misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions depending on the severity of the offense. The University also reserves the right to impose different sanctions if the respondent has previously been found responsible for a violation of University policy.

Individuals who are found responsible under this Policy may face sanctions as appropriate for students, employees, visitors, or others, including, but not limited to the following sanctions. Each of these sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct:

- Required assessment, education, counseling, or training;
- Probation;
- Warnings;
- Loss of privileges;
- Fines;
- Restitution;
- Behavioral contracts;
- Community service hours;
- Campus housing suspension, ranging from two (2) weeks to five (5) years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- Conditions upon presence on campus or at University events;
- No trespass or no-contact directives;
- Removal or non-renewal of scholarships or honors;
- Suspension from the University, ranging from two (2) weeks to five (5) years, with reinstatement requirements that could include behavioral contracts, required assessment or education,

demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;

- Expulsion from the University;
- Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions;
- Temporary or permanent revocation of degree;
- Revocation of admission to the University;
- Loss of salary or benefit such as sabbatical or research or travel funding;
- Suspension of promotion and salary increases, ranging from two (2) weeks to five (5) years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Suspension or withdrawal of faculty privileges, ranging from two (2) weeks to five (5) years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- Transfer or change of job or responsibilities;
- Reassignment or removal from an elected or appointed position;
- Formal censure;
- Demotion; and/or
- Termination of employment.

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving Sexual Misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of University privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of University facilities), educational requirements for organization members, required additional oversight of organization activities, temporary loss of funding and/or loss of recognition by the University, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Remedies for the complainant are designed to restore or preserve equal access to the University's education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Remedies, accommodations, and protective measures for the complainant include implementing or extending all or some of the following actions, without limitation:

- A mutual or one-sided no-contact directive;
- Prohibiting an individual involved from being on University property;

- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's on-campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a University residence;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no-contact orders available to a complainant; and/or
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the University community include increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad-based educational programming or training for relevant persons or groups.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Any concern about a violation of an imposed sanction should be reported to the Title IX Coordinator.

H. Notice of Determination

The University will simultaneously send a written notice of the determination of the formal complaint to complainant and respondent.

For formal complaints involving (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of an education program or activity or against a person *outside* of the United States: The written notice will include the allegations potentially constituting Sexual Misconduct, a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held), findings of fact supporting the determination, conclusions regarding the application of the University's policy to the facts, the determination regarding responsibility as to each allegation, any imposition of sanctions, whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant, and the rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied). The written notice will also include information about the procedures and

permissible bases for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the University has taken to eliminate the conduct and prevent its recurrence.

For all other complaints of Sexual Misconduct: The written notice will include the determination of the adjudicators.

In cases involving allegations of Title IX Sexual Harassment, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded. In cases involving allegations of other forms of Sexual Misconduct, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the adjudicators receive the adjudication file. In some cases, more time may be required.

The determination of the Title IX Hearing Panel/adjudicators may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

I. Dismissal of Formal Complaint Prior to Adjudication

If the allegations in a formal complaint are initially included in the notice of allegations as allegations of Title IX Sexual Harassment, but facts are gathered during the course of the complaint resolution process that indicate that the alleged conduct does not meet the definition of Title IX Sexual Harassment under this policy, the University will dismiss the formal complaint as to those allegations. Even if a formal complaint or any allegations of Title IX Sexual Harassment are dismissed, the University reserves the right to move forward with a complaint resolution process using the other Sexual Misconduct definitions and the other procedures in this Policy, as applicable.

In cases involving allegations of any Sexual Misconduct, the University may, at its discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication include, but are not limited to: the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by the University, or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the University dismisses a formal complaint, the University will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a formal complaint may be appealed as provided below.

J. Appeal

Either the complainant or the respondent may appeal a decision to dismiss a formal complaint or any allegations therein, as discussed above in Section X(F)(vi), "Dismissal of Formal Complaint Prior to Adjudication." The parties may also appeal the Title IX Hearing Panel's/adjudicators' decision regarding responsibility.

Grounds for appeals are as follows:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or Title IX Hearing Panel/adjudicators had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Submitting an Appeal

A party may request an appeal by submitting a written appeal statement, not to exceed 2,000 words, challenging the outcome of the complaint resolution process. The written appeal statement must explain which of the grounds above the party is invoking for the appeal and how those grounds are met and must be received by the Title IX Coordinator within two (2) calendar days following the date that the notice of determination was sent to the complainant and respondent. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

If the Title IX Coordinator determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not to exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. While the party may be assisted by their advisors in preparation of the responsive appeal statement, the

responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

The Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

The Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that is provided to the appeal officers. Such information may include, the written appeal statement, the responsive appeal statement, the notice of determination, the adjudication file in its entirety or in part, any previously undiscovered evidence (if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the appeal officer's decision, at the Title IX Coordinator's discretion.

For complaints involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States the appeal file will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the appeal file.

In cases where the appeal file is made available for review as discussed above, the parties and parties' advisors may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal file or any additional information, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

Appeals will be considered by one appointed appeal officer designated by the Title IX Coordinator. The University reserves the right to appoint any trained appeal officer who is free of conflict of interest or bias, including a third-party appeal officer. The parties will receive written notice of the appeal officer appointed. If any party has a concern that an appeal officer has a conflict of interest, the party should report the concern in writing as indicated in the Section IX(K), "Conflicts of Interest and Bias," above. The appeal officer will not be the Title IX Coordinator nor one of the Title IX Hearing Panel members/adjudicators or the investigator on the same matter.

Consideration of Appeal

The appeal officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The appeal officer

may, in their discretion, seek additional information from the Title IX Coordinator, investigator, or another appropriate individual. For cases of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, if the appeal officer receives any additional information, the parties shall have an opportunity to review the additional information.

The appeal officer has the authority to affirm the findings or remand the findings for reconsideration. If the appeal officer determines there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, the matter will generally be remanded for further investigation and/or deliberations by the Title IX Hearing Panel/adjudicators, and/or an additional live hearing, as determined by the appeal officer.

If remanded, the appeal officer, in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the original Title IX Hearing Panel/adjudicators or whether new Title IX Hearing Panel/adjudicators should review the matter. The appeal officer may not change the Title IX Hearing Panel's/adjudicators' determination of whether the respondent was responsible or not responsible for a Policy violation. Only the Title IX Hearing Panel/adjudicators reviewing the matter on remand from an appeal may change the determination of the original Title IX Hearing Panel/adjudicators of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the appeal officer in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the previous investigator(s) or whether a new investigator(s) should be appointed.

Upon remand, the investigator(s) and Title IX Hearing Panel/adjudicators shall utilize the same process as required for all complaint processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this Section.

If the appeal officer determines there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer will dismiss the appeal. This dismissal decision is final and is not appealable. If the appeal officer dismisses the appeal, the sanctions, if any, will be effective on the date the appeal officer's decision is provided to the parties.

The appeal officer will simultaneously issue a written decision to the parties describing the result of the appeal and the appeal officer's rationale for the result. The University will strive to complete the appeal within twenty (20) calendar days following the appeal officer's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff, or student grievance policies or processes.

XI. RECORDKEEPING RELATED TO SEXUAL MISCONDUCT

The Title IX Coordinator, in coordination with ITS as appropriate, is responsible for maintaining records relating to Sexual Misconduct reports and formal complaints. The Title IX Coordinator will maintain records of all incidents reported and all formal complaints made under this Policy, as well as their outcomes in order to track patterns and systemic concerns.

When a formal complaint is pending, each official having a role in the complaint resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the formal complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law. Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a complaint resolution process.

XII. COMPLAINTS OF RELATED MISCONDUCT

Any complaint relating to retaliation or interference with process in violation of this Policy, violations of supportive/interim measures, violation of the obligation to act in good faith, violation of the obligation to be truthful, violations of sanctions, or violations of a non-disclosure agreement should be reported promptly to the Title IX Coordinator. The University will provide a prompt and equitable process for the resolution of such complaints. The University will take appropriate action against any individual who retaliates against another person or interferes with a process in violation of this Policy or who violates supportive/interim measures, the obligation to act in good faith, the obligation to be truthful, sanctions, or a non-disclosure agreement.

When the University receives a complaint of retaliation or interference with process or of violations of supportive/interim measures, the obligation to act in good faith, the obligation to be truthful, sanctions, or a non-disclosure agreement, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator's discretion, options for resolution include, but are not limited to, informal discussions and resolution facilitated by the Title IX Coordinator, investigation and/or determination by the Title IX Coordinator, or assignment of a designated individual to investigate the complaint and/or determine an appropriate response. This process will be separate and distinct from the Complaint Procedures outlined above for addressing Sexual Misconduct complaints. The Title IX Coordinator will document the complaint received, the process used, and the outcome. The University will notify the parties of the outcome of the complaint. In instances where the outcome of the process results in a suspension longer than one semester, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy.

XIII. ALTERNATIVE PROCEDURES

Nothing in this Policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). The OCR office for institutions located in Florida is:

U.S. Department of Education
61 Forsyth Street S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: (404) 974-9406
Facsimile: (404) 974-9471
Email: OCR.Atlanta@ed.gov

XIV. RESOURCES

In addition to local authorities and agencies, the University offers resources to assist Complainants and Respondents of sexual misconduct. The following is a list of such resources and their respective contact information.

Reporting Options On Campus

- Cara Wald, Title IX and Section 504 Coordinator, (561) 803-2198, TitleIX@pba.edu
- Department of Public Safety, (561) 803-2500

Reporting Off Campus – Law Enforcement

- Emergency HELP dial 911
- West Palm Beach Police Department, Sexual Assault Notification Helpline (561) 688-4127

Confidential Resources On Campus

- Spiritual Development, (561) 803-2548
- Counseling Center, (561) 803-2576

Confidential Resources Off Campus

- Palm Beach County Complainants & Rape Crisis Center 24 Hr. Hotline, (561) 833-7273

Healthcare Options

- Good Samaritan Medical Center, 1309 N. Flagler Drive, West Palm Beach, (561) 650-5511
- St. Mary's Medical Center, 901 45th St., West Palm Beach, (561) 844-6300
- JFK Medical Center, 2201 45th St., West Palm Beach, (561) 842-6141

Visa and Immigration Assistance

- Immigration Legal Services, Catholic Charities, Diocese of Palm Beach, Inc., (561) 345-2003

Student Financial Aid (for financial aid questions only)

- Financial Aid Office, finaid@pba.edu, (561) 803-2126

XV. AFTERCARE FOR SURVIVORS OF SEXUAL ASSAULT

Survivors of sexual assault will be treated with dignity and respect. Individuals who have been sexually assaulted should immediately consider the following important steps:

1. Get away from the attacker to a safe place as fast as you can.
    - On-campus students should call their resident director/resident assistant immediately or go directly to the nearest emergency room.
    - Off-campus students are encouraged to call a trusted friend or a member of the Counseling Center staff.
    - A friend or Residence Life staff member may help transport the survivor to the emergency room.
    - If immediate medical attention is needed, call 911 and PBA Department of Public Safety at (561) 803-2500.

2. Seek medical care due to factors including pregnancy and the risk of sexually transmitted diseases and physical injuries —some of which may not be visible.
    - Survivors should be aware of the importance of preserving evidence. Do not wash, comb, or clean any part of your body. If clothes have been changed, they should be placed individually in paper bags and brought to the hospital.
    - Costs of medical care and six sessions of community counseling are covered by the state of Florida if the assault/rape is reported to the police or a local emergency room **within 48 hours of the assault.**
    - Survivors are encouraged to report all incidents of rape and/or sexual assault. It is strongly advised that any student who is raped or sexually assaulted have a medical examination, even if they think that no physical injury has occurred or they do not wish to file formal charges of any kind.
    - Filing a report with any agency does not commit the survivor to any subsequent course of action. The final decision is left to you.

3. Survivors are encouraged to talk with a counselor due to the inevitable emotional trauma that results from facing a crime of aggression and violence. Staff from the Counseling Center, Sexual Assault Response Team, and Palm Beach Rape Crisis Center are available.
    - Call (561) 803-2576 for the Counseling Center
    - Call (561) 625-2568 for the Sexual Assault Response Team

- Call (561) 625-2568 for the Palm Beach Rape Crisis Center during normal business hours or (561) 833-7273 for the 24-hour crisis hotline

Even if the decision to report is delayed days, weeks or months after the assault, students are still encouraged to file a report with the University and the appropriate police department.

XVI. AWARENESS AND EDUCATION

Palm Beach Atlantic University recognizes that awareness and educational efforts are important steps in sexual assault prevention. The University commits to the following prevention initiatives:

- This and related policies are included in faculty, staff and student handbooks. An abbreviated student handbook is distributed each fall with the full version available online at https://www.pba.edu/campus-life/christian-community/student-accountability.html.
- New students are made aware during the orientation week of the existence of sexual assault on college campuses, Palm Beach Atlantic University's policy and how to proceed if they become aware of such an incident.
- Current students are reminded during residence hall meetings each fall of the dangers of sexual assault.
- Residence Life staff receives yearly training on responding to sexual assault.
- Palm Beach Atlantic University's ban on alcohol and illegal drugs is a preventative action in combating sexual assault.
- Department of Public Safety provides safe walks for any student crossing campus in the evening hours. Call (561) 803-2500 to request a safe walk.
- Emergency phones can be found throughout campus.
- Department of Public Safety provides the community with timely reports of crimes committed on or off campus that could be considered a threat to students or employees. These reports are emailed as campus bulletins.

XVII. STATE LAW DEFINITIONS

Some of the conduct prohibited by this Policy may be a crime. Links to relevant Florida criminal law definitions are provided below. The Florida criminal law citations are provided for informational purposes only. The definitions set forth in Section V, "Prohibited Conduct," above will be used for all purposes under this Policy.

Sexual Assault:

See Florida Statute § 794.005 et seq. for applicable criminal law definitions relating to sexual assault. Florida law prohibits sexual battery as set forth in Florida Statute § 794.011; sexual battery oral, anal, or

female genital penetration, when (1) the other person is physically helpless to resist; (2) the offender coerces the other person to submit by threatening to use force or violence or to retaliate and the other person believes that the offender has the ability to execute the threat in the future; (3) the other person is mentally or physically incapacitated; or (4)the other person is mentally defective and the offender has reason to believe this or has actual knowledge of the fact.

Dating Violence:

See Florida Statute § 784.046 for applicable criminal law definitions relating to dating violence. Florida law prohibits dating violence against an individual who has or who has had a continuing and significant relationship of a romantic or intimate nature, as those terms are defined in Florida Statutes § 784.046 and 794.011.

Domestic Violence:

See Florida Statute § 741.28 for applicable criminal law definitions relating to domestic violence. Florida law prohibits domestic battery against a family or household member and other crimes involving domestic or family violence against a family or household member, as those terms are defined in Florida Statute § 741.28-.31.

Stalking:

See Florida Statute § 784.048 for applicable criminal law definitions relating to stalking. Florida law prohibits stalking as defined in Florida Statute § 784.048 (the willful, malicious, and repeated following, harassment, or cyberstalking of another person).