



Non-Title IX Sex-Based Discrimination Policy

1.0. PHILOSOPHY

Dominican University (hereinafter “the University”) is committed to ensuring a just and humane campus where all community members have the capacity to thrive. The Title IX Coordinator works in partnership with community stakeholders to support the culture of equity and inclusion that is critical to the University’s mission and identity. When the behavior of some community members challenges the well-being of others, the Title IX Coordinator, in conjunction with relevant University officials determines, to the extent possible, whether the University’s policies related to Title IX and Sex-Based Discrimination were violated.

To ensure the University’s ability to foster a just and humane campus for all, violations of these policies will not be tolerated. As such, the University community is asked to report incidents that may violate University anti-discrimination and sexual misconduct policies so that efforts can be made to end discriminatory and harassing conduct based on protected characteristics, prevent its reoccurrence, and, where possible, remedy its effects. The University takes these reports seriously and is therefore committed to following up on reports of alleged violations of this Policy.

1.1. Policy Statement

The University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment based on sex¹, and retaliation for engaging in a protected activity (hereinafter “Sex-Based Discrimination”).

The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the grievance process (Appendix A) during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, the University has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of Sex-Based Discrimination.

¹ Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression.

1.2. Policy Scope

The core purpose of this Policy is the prohibition of Sex-Based Discrimination. When the Respondent is a member of the University community, a complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this Policy.

The University recognizes that reports and/or complaints under this Policy may include multiple forms of discrimination and harassment as well as violations of other University policies; may involve various combinations of students, employees, and other members of the University community; and may require the simultaneous attention of multiple University departments. Accordingly, all University departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable University policies, to provide uniform, consistent, efficient, and effective responses to alleged Sex-Based Discrimination.

1.3. Title IX Coordinator

The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent Sex-Based Discrimination prohibited under this Policy.

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Vice President of Justice, Equity, & Inclusion (JEI). Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

1.4. Notice/Complaints of Sex-Based Discrimination, Harassment, and/or Retaliation

Reports or complaints of Sex-Based Discrimination may be made using any of the following options:

1. Contact the Title IX Coordinator: titleix@dom.edu

2. Contact any representative of the campus (*e.g.*, the Student Success & Engagement Office, Campus Safety, Residence Life, Human Resources, the Provost's Office, University Ministry, a faculty member, or a staff member)
3. Report online: [Title IX/Bias Reporting Form](#)

Anonymous reports are accepted but can give rise to a need to investigate to determine if the Parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. The University tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because the University respects Complainant requests for confidentiality unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the University to discuss and/or provide supportive measures.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC).

1.5. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged Sex-Based Discrimination. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter Sex-Based Discrimination.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving a report or complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a complaint with the University either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other Party.

These actions may include, but are not limited to:

- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Implementing contact limitations (no contact orders) between the Parties
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Increased security and monitoring of certain areas of the campus
- Providing campus safety escorts
- Providing transportation assistance
- Timely warnings
- Safety planning
- Student financial aid counseling
- Visa and immigration referrals
- Referral to the Employee Assistance Program
- Education to the institutional community or community subgroup(s)
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

1.6. Promptness

Once the University has received notice or a complaint, all allegations are promptly acted upon. Complaints typically take 60-90 business days to resolve. There are always exceptions and

extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in University procedures will be delayed, the University will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

1.7. Jurisdiction

This Policy applies to the University's education program and activities, to conduct that takes place on property owned or controlled by the University, at University-sponsored events, and in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of University community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to the University's education program or activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address reports/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial University interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, the University can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

1.8. Emergency Removal

At any time after receiving a report of Sex-Based Discrimination, the Title IX Coordinator may remove a student Respondent from one or more of the University's education programs and activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sex-Based Discrimination justifies removal.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written

summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to, removing a student from a residence hall, restricting a student's or employee's access to or use of facilities, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the University may place the Respondent on administrative leave at any time after receiving a report of Sex-Based Discrimination, including during the pendency of the investigation and adjudication process.

1.9. Privacy/Confidentiality

Every effort is made by the University to preserve the privacy of reports.² The University will not share the identity of any individual who has made a report or complaint of Sex-Based Discrimination; any Complainant; any individual who has been reported to be the perpetrator of Sex-Based Discrimination; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or its implementing regulations, or as required by law; or to carry out the resolution process, including any investigation, hearing, or informal resolution proceeding arising under this Policy.

² For the purpose of this Policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of University employees who "need to know" to assist in the assessment, investigation, and resolution of the complaint. All employees who are involved in the University's response to notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain healthcare providers, mental healthcare providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University has designated individuals who have the ability to have privileged communications as Confidential Resources, as outlined in Section 5.0.

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of University officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Review Board members, witnesses, and the Parties. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

The University may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

The Resolution Process (as outlined in Section 8.0 below) is private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with University Policy.

While there is an expectation of privacy around what is discussed during the Resolution Process, the Parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

2.0. SEX-BASED DISCRIMINATION POLICY

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of Sex-Based Discrimination. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of University Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

2.1. Sexual Harassment

Hostile Environment Sexual Harassment, defined as:

- a. Unwelcome verbal, written, graphic, and/or physical conduct;
- b. that is severe or pervasive and objectively offensive;
- c. on the basis of sex, that

- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.³

Quid Pro Quo Sexual Harassment, defined as:

- a. an University employee or student in a position of power
- b. conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the University,
- c. on an individual's participation in unwelcome sexual conduct.

2.2. Sexual Assault

Sexual Assault, defined as:

a. Non-Consensual Sexual Penetration:

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

b. Non-Consensual Sexual Contact:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

2.3. Sexual Exploitation

Sexual Exploitation, defined as:

- a. an individual taking non-consensual or abusive sexual advantage of another,
- b. for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of sexual exploitation include, but are not limited to:

³ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to encompass forms of sex-based disparate treatment, even if not harassing in nature.

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings

2.4. Intimate Partner Violence

Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction

between the persons involved in the relationship. For the purposes of this definition—

- i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- ii. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence,⁴ defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Illinois.

2.5. Stalking

Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person that
 - would cause a reasonable person to fear for their safety, or
 - the safety of others; or
 - suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

⁴ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

2.6. Other Misconduct Offenses

In addition to the forms of Sex-Based Harassment described above, the University additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived sex.

Harm/Endangerment, defined as:

- a. threatening or causing physical harm;
- b. extreme verbal, emotional, or psychological abuse; or
- c. other conduct which threatens or endangers the health or safety of any person or damages their property.

Discrimination, defined as:

- a. actions that deprive, limit, or deny,
- b. other members of the community,
- c. of educational or employment access, benefits, or opportunities,
- d. including disparate treatment.

Intimidation, defined as:

- a. implied threats or
- b. acts that cause the Complainant reasonable fear of harm.

Hazing, defined as:

- a. acts likely to cause physical or psychological harm or social ostracism
- b. to any person within the University community,
- c. when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Student Handbook & Code of Conduct).

Bullying, defined as:

- a. repeated and/or severe aggressive behavior,
- b. that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant.

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or dismissal/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/dismissal/termination.

3.0. DEFINITIONS AND DIMENSIONS OF CONSENT

Consent is an informed, freely given, and mutually understood agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through

mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

3.1. What is Consent?

- Silence or lack of physical or verbal resistance does not imply consent.
- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- Consent cannot be inferred from a person’s manner of dress.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent to past sexual activity does not constitute consent to future sexual activity.
- Consent can be withdrawn at any time. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent. When consent is withdrawn, sexual activity must immediately stop.
- Being in a romantic relationship with someone does not imply consent to sexual activity. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
 - The individual is incapacitated due to drug or alcohol consumption, either voluntarily or involuntarily;
 - The individual is unconscious, asleep, or otherwise unaware that sexual activity is occurring;
 - The individual is below the minimum age of consent in the applicable jurisdiction (17 years in Illinois); or
 - The individual has a mental disability that impairs his or her ability to provide consent.

3.2. Communicating consent

While verbal consent is not an absolute requirement for consensual sexual activity, verbal communication prior to engaging in sex helps to clarify consent. Communicating verbally before engaging in sexual activity is imperative. A person who is passive, unresponsive, or actively resists is demonstrating defective or withdrawn consent.

3.3. Individuals who are unable to give consent:

- Persons who are asleep or unconscious
- Persons who are incapacitated due to the influence of drugs, alcohol or medication

- Persons who are unable to communicate consent due to mental or physical conditions.
- Persons who have not reached the age of consent. The age of consent in Illinois is 17 but rises to 18 if the accused is a family member or holds a position of trust, authority or supervision in relation to the victim/survivor.

3.4. Coercion and Force

Consent must happen without force or coercion. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Proving the use of physical force is not necessary to show that sexual activity was coerced or non-consensual. Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Examples of coercion include but are not limited to:

- threatening to "out" someone based on sexual orientation, gender identity, or gender expression
- threatening to harm oneself if the other party does not engage in the sexual activity
- threatening to harm the person who does not engage in the sexual activity
- threatening to tell others private or intimate information one has shared, or information about sexual activities, if one does not engage in certain sexual behaviors

4.0. RETALIATION

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The University and any member of the University's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or 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 and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a resolution process under this Policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5.0. MANDATORY REPORTING AND CONFIDENTIALITY

The University makes students, administrators, faculty, and staff aware of the various reporting and confidential disclosure options available to them – so they can make informed choices. The University encourages anyone who experiences any kind of Sex-Based Discrimination to talk to someone identified in one or more of these groups but to be aware that different employees on campus have different abilities to maintain a Complainant's confidentiality.

5.1. Mandated Reporters

All University employees, including administrators, faculty, staff, contracted employees, and designated student employees; (*i.e.*, Circulation Desk Attendants, Peer Advisors, Resident Advisors, Campus Safety, Welcome Desk Workers, and University Ministry Student Staff) are required to report all details of an alleged incident of Sex-Based Discrimination (including the identities of both the Complainant and Respondent) to the Title IX Coordinator.

5.2. Confidential Employees

Licensed Mental Health Professionals and employees functioning within the scope of their employment and who are supervised by University employees with a professional license cannot disclose confidential information. These employees can maintain near complete confidentiality regarding Sex-Based Discrimination disclosed to them which is sometimes called a "privileged communication."

Members of the Mission & Ministry team are not confidential employees.

5.3. Confidentiality within the Roman Catholic Sacrament of Reconciliation and Penance

As a Catholic, Dominican institution, the University believes that the dignity of the human person and her or his restoration of right relationship with God and others is central to the profession and practice of any faith. In Roman Catholicism, the Sacrament of Reconciliation or Penance is a moment of sacred grace through healing. For Roman Catholic faculty, staff, and students, Reconciliation is made available by request or through general pastoral offerings of the University Ministry Center. For baptized Roman Catholics, the information shared within the confessional space of the Sacrament is completely confidential and remains under what the Church calls the sacramental seal. The seal prevents the confessor from sharing any information because it is “sacred, and cannot be violated under any pretext” (Catechism of the Catholic Church 2490). As such, a Roman Catholic priest in good standing serving as a confessor on the University’s campus shall not be required to report any information disclosed in the confessional space.

5.4. Complainant Requests for Confidentiality

Complainants have the right to request confidentiality. When deciding how they want to proceed, Complainants must weigh the fact that maintaining confidentiality can impact the University’s ability to adequately investigate a particular incident or to pursue appropriate action against a Respondent.

A Complainant who first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. The Title IX Coordinator will provide the Complainant with assistance if the Complainant decides to file a complaint.

5.4.1. Requesting Confidentiality from the University

If a Complainant discloses an incident to a mandated reporter (as described above) but wishes to maintain confidentiality or requests that no investigation be conducted or disciplinary action taken, the University will weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all. The mandated reporter must report to the Title IX Coordinator, and the Title IX Coordinator will assess the request for confidentiality.

If the University honors the Complainant’s request for confidentiality, the Complainant must understand that the University’s ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent(s) may be limited.

When weighing a Complainant’s request for confidentiality or request that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- An increased risk that the Respondent will commit additional acts of Sex-Based Discrimination,
- Whether there have been other Sex-Based Discrimination complaints about the same Respondent;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the Respondent threatened further Sex-Based Discrimination or other violence against the Complainant or others;
- Whether the Sex-Based Discrimination was committed by multiple Respondents;
- Whether Sex-Based Discrimination was perpetrated with a weapon;
- Whether the Complainant is a minor;
- Whether the University possesses other means to obtain relevant evidence of the violence (e.g., security cameras or personnel, physical evidence);
- Whether the Complainant's report reveals a pattern of inappropriate conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, the University will likely respect the Complainant's request for confidentiality.

If the University determines that it cannot maintain a Complainant's confidentiality, the University will inform the Complainant prior to commencing an investigation and will, to the extent possible, only share information with individuals responsible for coordinating the University's response.

The University will remain mindful of a Complainant's well-being and will take ongoing steps to protect the Complainant from retaliation or harm and/or work with the Complainant to create a safety plan. The University will partner with campus-based resources and community organizations as appropriate to protect the Complainant's well-being.

Dominican University will also:

- assist the Complainant in accessing other available advocacy, academic support, counseling, disability, and health or mental health services;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the Respondent pending the outcome of an investigation) or adjustments for assignments or tests;
- inform the Complainant of the right to report a crime to campus or local law enforcement (or not to do so) – and provide the Complainant with assistance if the Complainant wishes to do so.

5.5. Community Alerts

If the University determines that the alleged Respondent(s) pose a serious and immediate threat to the University community, the Title IX Coordinator or Campus Safety may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the Complainant to the extent permitted by law. The University may have other reporting obligations under state, federal, or local laws. Complainants will be notified whenever these reporting obligations apply to the incident.

6.0. AMNESTY

To encourage reporting, the University pursues a policy of offering witnesses and individuals who wish to report incidents limited amnesty from being charged for policy violations, such as alcohol or drug use. While violations cannot be completely overlooked, the University will provide educational rather than punitive responses in such cases. The seriousness of Sex-Based Discrimination is a major concern, and the University does not want any of the circumstances (*e.g.*, drug or alcohol use) to inhibit the reporting of Sex-Based Discrimination. However, the University reserves the right to require counseling, education, or other preventative measures to help prevent alcohol or drug violations in the future. The University's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

7.0. RIGHT TO AN ADVISOR

Each Party may choose an Advisor⁵ who is eligible and available⁶ to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

7.1. Advisor Expectations

Advisors are expected to consult with their advisees without disrupting University meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

⁵ This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

⁶ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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

Parties whose Advisors are disruptive or who do not abide by University policies and procedures may face the loss of that Advisor and/or possible Policy violations.

7.2. Expectations of the Parties with Respect to Advisors

The Parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

Upon written request of a party, the University will copy the Advisor on all communications between the University and the Party. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

8.0. RESOLUTION PROCESS

The University will act on any formal or informal allegation or notice of violation of this Policy that is received by the Title IX Coordinator⁷ or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated above.

The procedures described below apply to all allegations of Sex-Based Discrimination involving students, administrators, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with Sex-Based Discrimination (*e.g.*, vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

8.1. Stage 1: Initial Assessment, Counterclaims, and Informal Resolution

8.1.1. Initial Assessment

⁷ All references herein to a Title IX Coordinator also include a designee of the Title IX Coordinator.

Following intake, receipt of notice, or a complaint of an alleged violation of this Policy, the Title IX Coordinator⁸ engages in an initial assessment, which is typically one to five (1-5) business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX Coordinator works with the Complainant to determine which of three options to pursue: Supportive Measures Only⁹, Informal Resolution¹⁰, or Formal Resolution¹¹.
 - If Supportive Measures Only is preferred, the Title IX Coordinator works with the Complainant to identify their needs and then seeks to facilitate implementation. A Formal Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
 - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
 - If Formal Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
 - An incident
 - A potential pattern of misconduct
 - A culture/climate issue

The Title IX Coordinator may consult with Campus Safety, in cases where conduct violations or threats to individual or campus safety are concerned, and other University Administrators, as appropriate.

The University will act on all reports of alleged Sex-Based Discrimination. Complaints will be investigated unless the initial assessment determines that one or more of the following conditions apply:

- The alleged conduct is not a violation under the Policy,
- Another adjudicatory process has jurisdiction over the alleged conduct,

⁸ If circumstances require, the Vice President of JEI or the Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

⁹ **Supportive Measures Only** – measures to help restore the Complainant’s education access, as described in the Policy.

¹⁰ **Informal Resolution** – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.

¹¹ **Formal Resolution** – investigation of alleged Policy violation(s) and recommended finding, subject to a determination by the Review Board and the opportunity to appeal.

- The complaint can be resolved through Informal Resolution,
- There is not enough information to proceed with the complaint,
- There are extenuating circumstances that might affect the need for a full investigation of the complaint, or
- The Complainant requests confidentiality or a supportive response and that request can be granted.

In the case of an anonymous report or where a Complainant's request for confidentiality cannot be granted, the University may initiate the Formal Resolution Process.

8.1.2. Counterclaims

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. The University is obligated to ensure that any process is not abused for retaliatory purposes.

The University permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

8.1.3. Informal Resolution

Informal Resolution is applicable when the Parties voluntarily agree to resolve the matter through Alternative Resolution (*i.e.*, mediation, restorative practices, facilitated dialogue, etc.), when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Formal Resolution, and any Party participating in Informal Resolution can stop the process at any time and request the Formal Resolution process. Further, if an Informal Resolution fails, Formal Resolution may be pursued.

8.1.3.1. Alternative Resolution

Alternative Resolution is an informal process, such as mediation or restorative practices, by which the Parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal

Resolution process (described below) to resolve conflicts, as appropriate. The Parties must provide written consent to use Alternative Resolution.

The Title IX Coordinator determines if Alternative Resolution is appropriate, based on the willingness of the Parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternative Resolution.

In an Alternative Resolution, a trained administrator or third party facilitates communication among with the Parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternative Resolution process, though the Parties may agree to accept sanctions and/or appropriate remedies.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternative Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though similarly structured conversations may be made available after the Formal Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternative Resolution are not appealable.

When an investigation as outlined in Stage 2 below has already commenced, the Title IX Coordinator has discretion to determine if the investigation will be paused during Alternative Resolution, or if it will be limited, or will continue during the Alternative Resolution process.

8.1.3.2. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the Title IX Coordinator determines that the individual is in violation of University policy.

The Title IX Coordinator then works with appropriate University officials to determine appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the Sex-Based Discrimination; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all the alleged policy violations and the appropriate University officials have determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant may be consulted on and will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the appropriate University officials have determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations will continue to be investigated and resolved through Formal Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations above.

8.2. Stage Two: Formal Investigation

8.2.1. Notice of Investigation and Allegations

If Formal Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the Parties. Typically, notice is given in advance of an interview. Advanced notice facilitates the Parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and will be delivered via email to the parties' University-issued or designated email account. Once emailed, notice will be presumptively delivered. The notification will include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

8.2.2. Timelines

The University aims to complete all investigations within a sixty (60) business-day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the Parties as appropriate. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

8.2.3. Assignment of Investigator

The Title IX Coordinator, in conjunction with appropriate University officials, will assign a trained Investigator to conduct the investigation.¹² The Title IX Coordinator will vet the assigned Investigator to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

¹² External, trained third-party neutral professionals may also be used to serve as the Investigator. The Title IX Coordinator has the discretion to use a single Investigator or team of Investigators.

8.2.4. Investigation

The Investigator(s) will interview the Complainant, Respondent, Witnesses, and any other relevant persons and determine the appropriate order for the interviews. The investigators will also review all relevant evidence, including documents, electronic texts, social media, and other information relevant to understanding the facts of the case.

All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the preponderance of the evidence (*i.e.*, whether it is more likely than not that a policy violation occurred).

8.2.4.1. Witness Responsibilities

Witnesses (as distinguished from the Parties) who are University administrators, faculty, or staff are required to cooperate with and participate in the University's investigation and Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of Policy and may be subject to discipline.

8.2.4.2. Remote Processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator determines that timeliness, efficiency, or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator, though this approach is not ideal. When remote technologies are used, the University makes reasonable efforts to ensure privacy and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

8.2.4.3. Recording

No unauthorized audio or video recording of any kind is permitted during the Resolution Process including investigation interviews. If Investigator elects to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

8.2.4.4. Evidence

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (8.3.4.5.) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

8.2.4.5. Prior Sexual History/Patterns

Unless the Title IX Coordinator/Review Board determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual history of the Parties (though there may be a limited exception made with regard to the sexual history between the Parties); (3) irrelevant character evidence.

8.2.4.6. Previous Allegations/Violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator may supply the Title IX Coordinator/Review Board with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

8.2.4.7. Coordination with Law Enforcement

When necessary and appropriate, the University may contact any law enforcement agency that is conducting its own investigation to inform them that a University investigation is also in progress. The Title IX Coordinator or Investigator may seek to ascertain the status of the criminal investigation and to ascertain the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

8.2.5. Investigation Report

The Investigator will submit a draft investigation report to the Title IX Coordinator for review and feedback. The Investigator will then provide the Parties with a copy of the draft investigation report, including all relevant evidence, analysis, and credibility assessments. The Parties will have a full and fair opportunity to respond to the report in writing within five (5) business days. The Investigator will incorporate Party responses, if any, into the investigation report. The Investigator may choose to respond in writing to the Party

responses, and/or share the responses between the Parties for their responses, while also ensuring that they do not create a never-ending feedback loop.

After conducting any additional investigative steps requested by the Parties or identified by the Investigator, the Investigator will prepare a final investigation report, which will include a recommendation as to whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy. In reaching this recommended finding, the Investigator will consult with the Title IX Coordinator. The Investigator will finalize the investigation report and deliver it to the Title IX Coordinator.

The Title IX Coordinator will notify the Parties, simultaneously, that the final investigation report is complete and provide it to the Parties for review. The Parties may submit written responses to the final investigation report for consideration by the Review Board.

8.2.5.1 Recommended Finding(s) of No Responsibility

When the Investigator determines that there is insufficient information, by a preponderance of the evidence, to support a finding of responsibility on one or more of the allegations, the Complainant may accept or contest the recommended finding(s) by notifying (in writing) the Title IX Coordinator.

If the Complainant contests one or more of the recommended finding(s), the Title IX Coordinator will refer the case for an administrative hearing before a Review Board. The Title IX Coordinator will provide the final investigation report, together with any statements by the Parties, to the Review Board for further proceedings as outlined below.

If the Complainant accepts the recommended finding(s) of no responsibility, the investigation will be closed and documented in accordance with applicable University policies.

8.2.5.2 Recommended Finding(s) of Responsibility

When the Investigator determines that there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility on one or more of the allegations, the Respondent may accept or contest such recommended finding(s) by notifying (in-writing) the Title IX Coordinator.

If the Respondent contests one or more of the recommended finding(s), the Title IX Coordinator will refer the complaint for an administrative hearing before a Review Board. The Title IX Coordinator will provide the final investigation report, together with any statements by the Parties, to the Review Board for further proceedings as outlined below.

If the Respondent accepts the recommended finding(s) of responsibility, the Title IX Coordinator will work with appropriate University officials to recommend a sanction(s). If the Respondent is willing to accept the recommended sanction, the sanctions will be implemented, and the complaint closed. If the Respondent does not accept the recommended sanction, the Title IX Coordinator will refer the complaint for an administrative hearing before the Review Board solely on the issue of sanction, as outlined below.

8.3. Stage 3: Review Board

The Title IX Coordinator will appoint a standing pool of trained members of the University community and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Sex-Based Discrimination. The Title IX Coordinator will select three (3) members from this pool to serve on the Review Board, one of whom will serve as the Review Board Chair. The Review Board will review the recommended finding(s) and, if appropriate, determine the appropriate sanction(s) under these procedures. All individuals serving on any Review Board must be impartial and free from actual bias and conflict of interest.

8.3.1. Review Standard

If any Party contests the recommended finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, a hearing will be held to determine whether the evidence supports a violation of University policy. In determining whether the Respondent violated University policy, the Review Board will consider whether there is sufficient evidence to support the recommended finding(s) by a preponderance of the evidence.¹³

8.3.2. Determination and Notice of Outcome

Within ten (10) business days of receiving the final investigation report from the Investigator(s), the Title IX Coordinator will convene the Review Board. The Review Board will review the report and all responses, and then make the final determination. A simple majority vote is required to determine the finding.

If the record is incomplete, the Review Board may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Investigator, the Parties, or any witnesses, if needed.

¹³ Preponderance of the evidence is an evidentiary standard used in a burden of proof analysis. Under the preponderance standard, the burden of proof is met when the fact finder determines that there is more likely than not (a greater than 50% chance) that the claim is true.

The Investigator's recommendation should be strongly considered but is not binding on the Review Board. The Review Board may invite and consider impact and/or mitigation statements from the Parties if and when determining appropriate sanction(s), if any.

If the Respondent is found in violation of the Policy, the Review Board, in consultation with other University officials as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the Sex-Based Discrimination; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator informs the Parties simultaneously of the determination within five (5) business days of the determination, barring any exigent circumstances. Notifications are made in writing and will be delivered by email to the Parties' University-issued or designated email account. Once emailed, notice is presumptively delivered. The Title IX Coordinator will work with the Review Board to develop the Notification of Outcome.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the University is permitted to share pursuant to state or federal law, and the rationale supporting the findings to the extent the University is permitted to share under state or federal law. The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

The final determination may be appealed by either Party. The Notification of Outcome also includes the grounds on which the Parties may appeal and the steps the Parties may take to request an appeal of the findings. More information about the appeal procedures can be found in Section 8.4.

8.3.3. Sanctioning

In making the final determination on sanctions and other corrective actions, a history of the Respondent's conduct/policy violations may be considered. The range of potential sanctions or corrective actions that may be imposed against a student, faculty, or staff includes but is not limited to: written or verbal apology, discrimination or harassment education, verbal or written warning, probation, suspension, termination, or dismissal from the University. Employees are advised to consult any relevant handbooks for additional information regarding disciplinary action. Guests and other third parties who are found to have violated this Policy are subject to corrective action as deemed appropriate by the University, which may include removal from the University and termination of any applicable contractual or other arrangements.

8.4. Step 4: Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notification of Outcome. A single Appeal

Officer who has not previously been involved in the process will be designated by the Title IX Coordinator.¹⁴

Any Party may appeal, but appeals are limited to the following grounds:

1. A procedural error or omission occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).
2. To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.
3. The sanctions imposed fall outside the range of sanctions the University has designated for the violation(s) and the cumulative disciplinary record of the Respondent.

The appeal request will be forwarded to the Appeal Officer for consideration and to determine if the request meets the grounds for appeal (a Review for Standing). The Appeal Officer may consult with appropriate individuals to assist with the Review for Standing of the appeal request. The Review for Standing is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds for appeal and is timely filed.

If any of the grounds in the appeal request do not meet the grounds in this Section, the request will be denied by the Appeal Officer and the Parties notified in writing of the denial and rationale.

If any of the grounds in the appeal request meet the grounds in this Section, the Appeal Officer will notify the Title IX Coordinator, who will share the appeal request with all other Parties or other appropriate persons such as the Investigator. Any response to the appeal must be filed in writing within five (5) business days. Another Party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing Party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each Party. The Appeal Officer will review the appeal request(s) within five (5) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Officer dismisses the appeal.

When the Appeal Officer finds that at least one of the grounds is met by at least one Party, the Appeal Officer will gather any additional information needed and all documentation regarding the approved grounds for appeal. The Appeal Officer will render a decision within ten (10) business days, barring exigent circumstances. The preponderance of the evidence standard is used. The Appeal Officer will notify the Title IX Coordinator of their decision and will work with the Title IX Coordinator to finalize a notice of the appeal outcome.

¹⁴ External, trained third-party neutral professionals may also be used to serve as Appeal Officers.

A notice of the appeal outcome will be sent to all Parties simultaneously. The notice will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings. Notice will be shared with the Parties within five (5) business days of notification to the Title IX Coordinator of the Appeal Officer's decision, absent extenuating circumstances. Notification will be made in writing and will be delivered by email to the Parties' University-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

When the Appeal Officer finds that at least one of the grounds is met by at least one Party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Officer are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Officer to substitute their judgment for that of the original Investigator or Review Board merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator for reconsideration. Other appeals should be remanded at the discretion of the Appeal Officer.
- Sanctions imposed as the result of the Formal Resolution Process are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator and/or Review Board or the Title IX Coordinator (as in cases of bias), the Appeal Officer may recommend a new investigation and/or Formal Resolution Process, including a new Review Board.
 - The results of a new Formal Resolution Process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

8.5. Withdrawal or Resignation During the Formal Resolution Process

8.5.1 Students

If a student has an allegation pending for violation of this Policy, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma. If a student decides not to participate in the resolution process, the process will proceed to resolution without their participation.

If the student Respondent withdraws or takes a leave for a specified period of time (*e.g.*, one semester or term), the resolution process may continue remotely, and that student Respondent will not be permitted to return to the University unless and until the resolution process has been completed and all sanctions (if applicable) have been satisfied. They may also be barred from University property and/or events until the resolution process has been completed and all sanctions (if applicable) have been satisfied.

During the resolution process, the University may put a hold on a Respondent's transcript or place a notation on a Respondent's transcript that a disciplinary matter is pending.

The University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Sex-Based Discrimination.

8.5.2. Employees

If an employee Respondent resigns while allegations remain unresolved, the University's formal resolution process may be limited, as disciplinary action cannot be pursued once the individual is no longer employed by the University. Nevertheless, the University remains committed to addressing any systemic issues, factors contributing to the alleged violation(s), and mitigating any continuing impacts of the alleged Sex-Based Discrimination.

The resignation of an employee Respondent under such circumstances will be documented, and the individual will not be considered eligible for future employment at the University. This status will be communicated to the Title IX Coordinator and maintained in their records. Human Resources and any relevant University hiring authorities will be informed accordingly.

In response to inquiries for employment references about the individual, it will be noted that the individual resigned while a disciplinary matter was pending. It is crucial to handle such communications with due regard for privacy and legal constraints, ensuring that all statements are factual and free from speculation.

8.6. Long Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the campus community that are intended to stop the Sex-Based Discrimination, remedy the effects, and prevent reoccurrence.

These remedies/actions may include one or more of the following, but are not limited to:

- Referral to counseling and health services
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Provision of transportation accommodations
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Climate surveys
- Policy modification and/or training

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the Parties even if no policy violation is found. When no policy violation is found, the Title IX Coordinator will address any remedies that may be appropriate for the Respondent to ensure no effective denial of educational or employment access. The University will maintain the privacy/confidentiality of any long-term remedies/actions/measures, provided that the University will comply with any disclosure requirements provided by applicable law, such as the Family Educational Rights and Privacy Act (FERPA) applicable to student records, and provided that privacy/confidentiality does not impair the University's ability to provide these services.

8.7. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with sanctions, responsive actions, and corrective actions within the timeframe specified by the Review Board (including the Appeal Officer) and/or the Title IX Coordinator. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and responsive/corrective action(s), including suspension, dismissal, and/or termination from the University and may be noted on a student's official transcript in accordance with applicable University policies. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

9.0 FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with, or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate University policies.

10.0. FILING AND RECORD KEEPING

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator in the complaint database for a period not to exceed seven (7) years, or as required by state or federal law or institutional policy.

11.0. PERIODIC REVIEW OF POLICY

This Policy and the procedures contained herein supersede any previous policies addressing Non-Title IX Sex-Based Discrimination. This Policy and the procedures contained herein will be reviewed and updated annually 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.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation – or alterations due to court decisions - require policy or procedural alterations not reflected in this Policy and these procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution unless the Parties consent to be bound by the current policy.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by the University regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by the University to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the University in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement and/or other University officials.

- The right to be informed of available supportive measures on campus and in the community.
- The right to a University-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any University meeting or interview involving another party, when possible.
- The right to identify and have the Investigator(s), Advisors, and/or Decision-maker(s) question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
- The right to have inadmissible sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision-maker(s).
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10)-business-day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.

- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding and written determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- The right to be promptly informed of the finding(s) and sanction(s) (if any) of the Resolution Process and a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written determination letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX B: UNETHICAL RELATIONSHIPS POLICY

EXPECTATIONS REGARDING UNETHICAL RELATIONSHIPS¹⁵

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). In reality, these relationships may be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of their supervisor and/or the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an affected relationship existed prior to adoption of this Policy, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes Resident Assistants (RAs) and students over whom the RA has direct responsibility. While no relationships are specifically prohibited by this Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

¹⁵ Violation of the Unethical Relationships Policy is a Human Resources/Employee Relations matter and should not be addressed under this Resolution Process unless the elements of the definition of harassment are met.