

**2023-24**

# ***STUDENT HANDBOOK***

***Section 6 - Title IX***



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# Title IX and other Sexual Harassment and Misconduct Policy

*Applies to the Title IX Definition of Sexual Harassment and All Other Forms of Sexual Harassment, Sexual Violence, Intimate Partner Violence and Stalking for Students, Staff, Faculty, Trustees, and Third Parties*

## I. **Preamble**

### A. Reason for Policy

The University of Evansville (the “University”) is committed to fostering an atmosphere free from harassment and creating an inclusive campus for all members of the University community regardless of their sex, sexual orientation, or gender identity. Sexual and Gender-Based Harassment and interpersonal violence are destructive to such a climate and will not be tolerated in the University community. The Title IX and other Sexual Harassment and Misconduct Policy (the “Policy”) informs members of the University community about the University’s prohibition against Title IX Sexual Harassment, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking, as well as other forms of Sexual and Gender-Based Harassment (including conduct defined under Title VII) of the Civil Rights Act of 1964), Sexual Exploitation and Retaliation (collectively, “Prohibited Conduct”). It provides information about resources, reporting options, and prompt and equitable resolution options. The Policy reinforces the University’s commitment to: (1) preventing and responding to Prohibited Conduct in a manner consistent with applicable federal, state and local law; (2) cultivating a climate where all individuals are well-informed and comfortable in reporting Prohibited Conduct; and (3) identifying the standards by which potential violations of this Policy will be evaluated. As outlined in this Policy, the University will take steps to eliminate sexual and gender-based harassment and violence, prevent their recurrence, and remedy any discriminatory effects for members of the University community.

### B. Policy Statement

Consistent with the University’s Non-discrimination Statement, the University does not discriminate against any person in any of its education or employment programs and activities on any basis prohibited by federal law or other applicable law, including on the basis of sex or gender, and it does not tolerate discrimination or harassment on the basis of sex or gender. This Policy has been drafted to comply with the applicable legal requirements of Title IX of the Education Amendments of 1972 (“Title IX”) and its implementing regulations, including the final Title IX regulations issued by the U.S. Department of Education’s Office for Civil Rights in May 2020, which prohibit discrimination on the basis of sex in all of the University’s education programs and activities. The requirement not to discriminate on the basis of sex in the educational program or activity extends to admission and employment. This Policy is also drafted to comply with requirements from Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by relevant provisions of the Violence Against Women Reauthorization Act of 2013 (“VAWA”), which governs certain aspects of the University’s response to sexual assault, dating violence, domestic violence and stalking; and other applicable federal and Indiana state laws.

This Policy encourages prompt reporting of Prohibited Conduct; identifies persons to whom Prohibited Conduct may be reported; prohibits retaliation against persons who bring reports under this Policy; assures privacy to the extent possible consistent with the need to address and resolve Prohibited Conduct appropriately and foster a safe learning, living and working environment; assures all members of the University community that each report of Prohibited Conduct will receive a prompt, equitable, impartial and thorough investigation and/or resolution; and provides for appropriate disciplinary or other corrective action.

A person who is determined at the conclusion of an investigation to have committed Prohibited Conduct in violation of this Policy may be subject to disciplinary action, up to and including expulsion or termination. In some circumstances, the University reserves the right to remove a student from the University’s education program or activity, or place an employee on administrative leave prior to the conclusion of the Formal Resolution Process. Some forms of Prohibited Conduct may also violate federal, state and/or local law, and criminal prosecution may occur independently of any disciplinary action imposed by the University. The University’s ultimate goal is to prevent Prohibited Conduct through prevention and education. It is the responsibility of every member of the University community to foster an environment free of Prohibited Conduct. However, if Prohibited Conduct occurs, the University will respond firmly, fairly and in a timely manner, using both informal and formal procedures designed to eliminate the conduct, prevent its recurrence, and remedy any adverse effects of the conduct on individuals, members of the campus community, or University-related programs or activities. All members of the University community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement or seeking assistance from a person in authority. Retaliation against community members who make good faith reports of Prohibited Conduct or who participate in an investigation under this Policy is prohibited. Nothing in this Policy shall be deemed to revoke any right a faculty member may have to file a grievance outlined in the Faculty Manual. Grievance procedures will be implemented in a manner consistent with the requirements of Title IX and the Clery Act.

## II. Scope and Jurisdiction

This Policy governs the conduct of faculty, staff, students, alumni, members of the Board of Trustees (Trustees), volunteers, and other participants in University programs and activities that occur on the campuses of the University of Evansville, the Stone Family Center for Health Sciences, and Harlaxton College. It also governs the conduct of third parties, including visitors and third-party contractors and vendors.

In this Policy, the individual reported to have experienced Prohibited Conduct is referred to as the Complainant. The individual who is reported to have committed Prohibited Conduct is referred to as the Respondent.

This Policy applies to acts of Prohibited Conduct that occurs both in the United States and in the University's education program or activity. The term "education program or activity" includes all of the University's operations, including the Stone Family Center for Health Sciences, and Harlaxton College, and other locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the University. The University's education program or activity can include on-campus, off-campus, or online conduct, and applies to employment and admissions. Examples include University-sponsored, University-funded or otherwise University-supported study off campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises.

The Policy also applies to Prohibited Conduct that occurs outside of the United States, but in connection with the University's education program or activities, such as University-sponsored, University-funded or otherwise University-supported study abroad programs.

Under certain circumstances, the Policy may also apply to instances in which the conduct occurred outside of the education program or activity, but where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University's education program or activity, or the conduct may have the effect of posing a serious threat to the University community.

If the Respondent is not an employee or student, the University of Evansville's ability to take disciplinary action will be limited and is determined by the context of the Prohibited Conduct and the nature of the relationship of the third party Respondent to the University. A visitor or third-party who is accused of violating this Policy may have their relationship with the University of Evansville terminated and/or be permanently barred from the University or subject to other restrictions for failing to comply with this Policy.

In instances where the University does not have disciplinary authority over the Respondent or the conduct is unconnected to a University education program or activity, the University will take steps to support a Complainant or other campus community members by offering reasonably available Supportive Measures and provide assistance in identifying external reporting mechanisms.

### **A. Federal Jurisdictional Requirements Unique to Title IX Sexual Harassment**

The Title IX regulations apply to specific forms of sexual harassment that occur in an education program or activity in the United States. Where conduct occurs outside of the education program or activity, outside of the United States, or would not meet the definition of Title IX Sexual Harassment, the University is required to dismiss any allegations in a formal complaint under Title IX.

However, in keeping with the University's educational mission and commitment to foster a learning, living, and working environment free from discrimination, harassment and retaliation, the University can move forward under the same resolution process for Sexual and Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking and other forms of Prohibited Conduct that occur outside of Title IX Jurisdiction (e.g., not in the United States, or as noted above, outside of the education program or activity).

## III. Intersection and Coordination with Other Policies and Procedures

Discrimination or harassment on the basis of race, color, creed or religion, national origin, age, disability, veteran status, gender identity, and all federally protected groups/classes not covered by Title IX do not fall under this Policy.

In addition, student, staff and faculty conduct is governed by applicable University policies and by the following:

- [University of Evansville Employee Code of Conduct](#)
- [University of Evansville Drug and Alcohol Policies](#)
- [University of Evansville Student Handbook](#)
- [Harlaxton College Student Handbook](#)
- [University of Evansville Staff Manual](#)
- [University of Evansville Administrator Manual](#)
- [University of Evansville Faculty Manual](#)
- [University of Evansville Adjunct Faculty Manual](#)
- [Harlaxton College Employee Manual, Part 1](#)
- [Harlaxton College Employee Manual, Part 2](#)
- [University of Evansville Protection of Children Policy](#)

Where conduct involves the potential violation of both this Policy and another University policy, the University may choose to investigate other potential misconduct under the procedures set forth in this Policy, provided that it does not unduly delay a prompt or equitable resolution of the report. The classification of the Respondent's primary role (student or employee) will direct the processes that will be followed for resolution.

This Policy applies to all reports of Prohibited Conduct that are received by the University on or after the effective date of this Policy, regardless of when the Prohibited Conduct occurred. Where the date of the Prohibited Conduct precedes the effective date of this Policy, the definitions of Prohibited Conduct in existence at the time of the alleged incident(s) will be used. The procedures under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) occurred.

#### **IV. The Assistant Director of Institutional Equity and Title IX Coordinator**

The University has designated an Assistant Director of Institutional Equity and Title IX Coordinator to oversee the implementation of this Policy and to ensure compliance with Title IX, relevant portions of VAWA and Title VII, and to work with the University's Office of Public Safety to ensure compliance with the Clery Act and other applicable laws. The Assistant Director of Institutional Equity and Title IX Coordinator is also charged with providing education and training; overseeing complaints; coordinating the University's investigation, response, and resolution of all reports of Prohibited Conduct under this Policy; maintaining centralized records of all reports, investigations, and resolutions in accordance to Title IX and the Office of Institutional Equity's Document Retention Policy.

The University's Assistant Director of Institutional Equity and Title IX Coordinator is:

Ms. Annie Sills  
University of Evansville  
Center for Diversity Equity and Inclusion, RUC Room 263 or Olmsted Administration Hall 118  
1800 Lincoln Ave.  
Evansville, IN. 47722  
(812) 488-5261  
[cs175@evansville.edu](mailto:cs175@evansville.edu)  
[titleIX@evansville.edu](mailto:titleIX@evansville.edu)

Concerns about the University's application of Title IX, Title VII and the Clery Act may be addressed to the University's Assistant Director of Institutional Equity and Title IX Coordinator; the United States Department of Education, Clery Act Compliance Division ([clery@ed.gov](mailto:clery@ed.gov)); the United States Department of Education, Office for Civil Rights ([OCR@ed.gov](mailto:OCR@ed.gov) or 800-421-3481); the Equal Employment Opportunity Commission ([info@eeoc.gov](mailto:info@eeoc.gov) or 800-669-4000); and/or (for Harlaxton College) the Office of Independent Adjudicator (<https://www.oiahe.org.uk/contact-us/> or 0118 959 9813).

To request disability accommodations, students should contact the University's Office of Counseling Services at (812) 488-2663 or [counselingservices@evansville.edu](mailto:counselingservices@evansville.edu). Employees and other members of the University community should contact the Office of Human Resources at (812) 488-2943 or [hr@evansville.edu](mailto:hr@evansville.edu).

##### **A. Prevention and Awareness Programs**

The University is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming and returning students and current employees receive ongoing training and related programs.

The Assistant Director of Institutional Equity and Title IX Coordinator maintains broad oversight responsibility but may delegate responsibilities under this Policy to designated administrators or external professionals who will have appropriate training and/or experience. When used in this Policy, the term Assistant Director of Institutional Equity and Title IX Coordinator may include an appropriate designee.

#### **V. Definitions of Key Terms**

- **Advisor:** The parties may be accompanied by an Advisor at any meeting or proceeding related to the resolution of a report under the Policy. The Advisor may be any person, including an attorney, and need not be affiliated with the University
- **Complainant:** A student, employee, visitor, guest, or program participant who reports they have been the victim of sexual misconduct.
- **Confidential Resource:** Any University employee or independent contractor who has the ability to maintain the confidentiality of communications under applicable law or by designation. Confidential Resources include medical, clinical, and mental-health professionals, and clergy when acting in that professional role in the provision of services; and any employee providing administrative, operational and/or related support for such providers in their performance of such services.

- **Disciplinary Authority:** A disciplinary authority, who may be an external professional appointed by the University or an internal administrator, who is designated to review the investigative report and preside over the hearing to determine if a preponderance of the evidence exists to warrant the imposition of appropriate sanction(s) and/or remedies. The Disciplinary Authority for Respondents who are tenured or tenured track faculty is addressed below.
- **Exculpatory Evidence:** Evidence that indicates that a Respondent did not engage in Prohibited Conduct.
- **Formal Complaint:** A signed document filed by a Complainant or signed by the Assistant Director of Institutional Equity and Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment.
- **Formal Grievance Process:** The investigation and adjudication of prohibited conduct resulting in a formal hearing and determination of responsibility, and if appropriate, accompanying sanctions.
- **Inculpatory Evidence:** Evidence that indicates that a Respondent engaged in Prohibited Conduct.
- **Informal Resolution:** A voluntary, structured interaction between the Complainant and Respondent to resolve concerns prior to a determination by the Disciplinary Authority. The informal resolution process is intended to be flexible while also providing for a full range of possible outcomes. Informal resolution may include mediation between the parties.
- **Preponderance of the Evidence:** The standard of evidence applied to determine whether Respondent is responsible for violating the policy. This means that the University will decide whether it is more likely than not, based upon the available information, that the Respondent is responsible for the alleged Policy violation(s).
- **Prohibited Conduct:** Reported conduct that is a violation of the Title IX and other Sexual Harassment and Misconduct Policy.
- **Respondent:** A student, employee, visitor, guest of program participant who is alleged by the Complainant to have committed Prohibited Conduct.
- **Responsible Employee:** A University of Evansville employee, who is not designated as a Confidential Resource, and is required to report incidents of Sexual Harassment and Misconduct to the Assistant Director of Institutional Equity and Title IX Coordinator.
- **Supportive Measure:** A non-disciplinary, non-punitive individualized service offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent at any time before or after a Formal Complaint is filed or where no Formal Complaint has been filed.

## VI. Definitions of Prohibited Conduct

This Policy prohibits a broad range of behaviors, which are referred to collectively as “Prohibited Conduct.” In determining whether reported conduct violates this Policy, the University will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Prohibited Conduct can be committed by or against individuals of any sex, gender, gender identity, gender expression, or sexual orientation, and can occur between individuals of the same or different sex or gender, gender identity, gender expression, or sexual orientation. It can occur between strangers or acquaintances, between individuals involved in a professional relationship, and between people involved in intimate or sexual relationships. Lack of familiarity with University policy is not a defense to a violation of this Policy. Unless specifically noted, intent is not a required element to establish a policy violation. Additionally, intoxication or impairment from alcohol, drugs or other substances is not a defense to a violation of this Policy.

### A. Title IX Sexual Harassment

The Title IX regulations define Sexual Harassment as conduct on the basis of sex, sexual orientation, or gender identity that must satisfy one or more of the following:

- (1) An employee conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct; or
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectionably offensive that it effectively denies a person equal access to an education program or activity; and
- (3) Sexual Assault, Dating Violence, Domestic Violence, Stalking and Retaliation, as defined below.
  - (a) **Sexual Assault:** Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of **consent**, including **incapacitation**). Sexual contact includes:
    - (i) sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or

- (ii) sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification; or
- (iii) attempts to commit Sexual Assault.

**(b) Dating and Domestic Violence** includes any act of violence against a Complainant who is or has been involved in a sexual, dating, domestic, or other intimate relationship with the Respondent, or against a person with whom the Respondent has sought to have such a relationship, as follows:

- (i) **Dating Violence:** includes any act of violence committed by a person:
  - (1) Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
  - (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - a. the length of the relationship;
    - b. the type of relationship; and
    - c. the frequency of interaction between the persons involved in the relationship.

- (ii) **Domestic Violence:** includes any act of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under Indiana state law, or by any other person against an adult or minor Complainant who is protected from that person's acts under Indiana state law.

Dating or Domestic Violence may also include forms of Sexual Harassment under this Policy, including Sexual Assault, Sexual Exploitation, and Stalking.

**(c) Stalking:** Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

## **B. Other Forms of Prohibited Conduct**

(1) In addition, consistent with Title VII of the Civil Rights Act of 1964 and the recognition that Sexual Harassment can occur in a wider variety of contexts, the University also defines Sexual Harassment to include Sexual and Gender-Based Harassment, as described below:

**(a) Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in (i), (ii) or (iii), in the following section on Gender-Based Harassment, is present.

**(b) Gender-Based Harassment** includes harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or nonverbal, graphic, physical or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in (i), (ii) or (iii), below, is present:

- (i) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any University program, activity, or benefit.
- (ii) Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions.
- (iii) Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard. A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment.

**(c) Sexual and Gender-Based Harassment:**

- (i) May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- (ii) Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- (iii) May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.
- (iv) May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- (v) May be committed by or against an individual or may be a result of the actions of an organization or group.
- (vi) May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- (vii) May occur in the classroom, in the workplace, in residential settings, or other settings, as outlined in the Scope and Jurisdiction section of this policy.
- (viii) May be a one-time event or may be part of a pattern of behavior.
- (ix) May be committed in the presence of others or when the parties are alone.
- (x) May affect the Complainant and/or third parties who witness or observe harassment.

**Examples of Sexual and Gender-Based Harassment May Include, for example:**

- i. Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any education program or activity) in exchange for sexual favors or submission to conduct of a sexual nature.
- ii. Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because submission to conduct of a sexual nature is rejected.
- iii. Unwelcome sexual advances, repeated propositions, or requests for a sexual relationship to an individual who has previously indicated that such conduct is not wanted, unwelcome physical contact of a sexual nature, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's sexuality that are so severe, persistent, or pervasive that they would reasonably be perceived as creating a hostile or abusive work or educational environment.

**C. Retaliation** means any adverse action, intimidation, threat, coercion, or discrimination against an individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a report or Formal Complaint of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this Policy. Retaliation includes such conduct through associates or agents of a Complainant, Respondent, or participant in any investigation or proceeding related to this Policy.

**D. Sexual Exploitation** occurs when a person violates the sexual privacy of another or takes advantage of another person's sexuality without Consent. Sexual Exploitation may include:

Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; recording, photographing, transmitting, showing, viewing, streaming or distributing intimate or sexual images, audio recordings or sexual information without the knowledge and consent of all parties involved; or exposing one's genitals or breasts, or causing another to expose their own genitals or breasts, in non-consensual circumstances.

**E. Complicity** is any deliberate act or failure to act that knowingly or intentionally aids, attempts, or assists the commission of a specific act of Prohibited Conduct by another person.

**F. Violation of University Directive** is the failure to abide by the terms of a Supportive Measure or comply with a requirement of this Policy.



## VII. Related Definitions

In determining whether certain forms of Prohibited Conduct violate this Policy, the University must determine whether the acts occurred with the Consent of the Complainant.

**Consent** requires a voluntary, informed and freely given agreement, communicated through mutually understandable words and/or actions, to engage in agreed-upon Sexual Contact, Sexual Intercourse, Sexual Exploitation, or other sexual activity. Consent cannot be obtained through force, where there is a reasonable belief of the threat of force, or by taking advantage of another person's incapacitation.

In evaluating whether Consent has been freely sought and given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give consent; and whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular sexual act.

Important considerations regarding Consent include:

- Consent to one form of sexual activity does not imply or constitute consent to another form of sexual activity.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- Consent to an act with one person does not constitute consent to an act with any other person.
- The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be real time and mutual consent to sexual activity.
- Consent can be withdrawn or modified at any time, and sexual contact must cease immediately once Consent is withdrawn.
- Consent cannot be inferred from the absence of a "no."
- Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance, and relying on nonverbal communication alone may result in a violation of this Policy.

The age of Consent in the State of Indiana is 16. Individuals who are 14 or 15 years of age are legally incapable of giving consent to Sexual Intercourse or Sexual Contact by an individual who is four or more years older.

**Incapacitation** is the inability, temporarily or permanently, to give Consent because the individual is mentally and/or physically impaired, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if the individual demonstrates that the individual is unaware at the time of the incident of where individual is, how the individual got there, or why or how the individual became engaged in a sexual interaction.

When alcohol or other drugs are involved, Incapacitation is a state of drunkenness, intoxication or impairment that is so severe that it interferes with a person's capacity to make informed and knowing decisions. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized determination. The University does not expect community members to be medical experts in assessing Incapacitation. Individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching Incapacitation. A person's level of intoxication is not always demonstrated by objective signs; however, some signs that a person may be incapacitated include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass and metabolism. It is especially important, therefore, that anyone engaging in sexual activity is aware of both their own and the other person's level of intoxication and capacity to give consent.

It is important to remember that the use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether Consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or Incapacitation, the safest course of action is to forgo or cease any sexual activity. Even where there is insufficient evidence to establish Incapacitation, a Complainant's level of impairment may still be a relevant factor in establishing whether Consent was sought and freely given.

In evaluating Consent in cases of reported Incapacitation, the University asks two questions: (1) Did the Respondent know that the Complainant was incapacitated? and if not, (2) Would a sober, reasonable person in a similar set of circumstances as the Respondent have known that the Complainant was incapacitated? If the answer to either of these questions is "yes," there was no Consent; and the conduct is likely a violation of this Policy. A Respondent's voluntary intoxication is never an excuse for or a defense of Prohibited Conduct, and it does not diminish one's responsibility to determine that the other person has given Consent.

## VIII. Understanding Privacy and Confidentiality

- A. Privacy** refers to the discretion that will be exercised by the University, including the Office of Institutional Equity, in the course of any investigation or disciplinary processes under this Policy. Information related to a report of Prohibited Conduct will be handled discreetly and shared with a limited circle of University employees or designees who need to know in order to assist in the assessment, investigation and resolution of the report and related issues. Individuals in the Office of Institutional Equity, along with Investigators, Disciplinary Authority members, and External Reviewers will receive training in how to safeguard private information. The University will make reasonable efforts to investigate and address reports of Prohibited Conduct under this Policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the University will maintain the privacy of the parties to the extent reasonably possible. The privacy of student education records will be protected in accordance with the university's Policy on the Access to Student Records in accordance with the Family Educational Rights and Privacy Act (FERPA). Access to an employee's personnel records is also governed by University policy and by applicable local laws.
- B. Confidentiality** refers to the level of protection that must be applied to statutory protections provided to individuals who disclose information in legally protected or privileged relationships, including professional mental health counselors, medical professionals, and ordained clergy (see Confidential Resources below). These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of the provision of professional services. When an individual shares information with a Confidential Resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the Confidential Resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

Confidential Resources submit non-personally identifying information about Clery-reportable crimes to the Office of Public Safety for purposes of the anonymous statistical reporting under the Clery Act.

- C. Release of Information by the University:** Pursuant to the Clery Act, the University must disclose statistics about Clery Act crimes in its daily crime log and Annual Security Report and provides those statistics to the U.S. Department of Education. If a report of Sexual Assault, Dating Violence, Domestic Violence or Stalking discloses a serious or continuing threat to the campus community, the University will issue a timely notification to the campus community to protect the health and safety of the campus community as required by the Clery Act. In all of these instances, the information is reported in a manner that does not include personally identifying information about persons involved in an incident. In addition, Confidential Resources may submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or student.

The University will not release the name of the Complainant, the Respondent or witnesses to the general public except as otherwise permitted or required by law. The University will also maintain the confidentiality of any Supportive Measures provided to a Complainant, to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures. The University may also share non-personally identifying information about reports received in aggregate form, including data about outcomes and sanctions. All University proceedings are conducted in compliance with the requirements of FERPA, the Clery Act (as amended by VAWA), Title IX, state and local law, and University policy.

## IX. Reporting Responsibility of University Employees

It is important to understand the different responsibilities of University employees. Some employees are designated as **Confidential Resources**, meaning that they will maintain the Confidentiality of information shared with them, as described above. All other employees are designated as **Responsible Employees**, meaning that they are required to promptly share all information about Prohibited Conduct with the Assistant Director of Institutional Equity and Title IX Coordinator.

- A. Confidential Resources** include any University employee or independent contractor who has the ability to maintain the confidentiality of communications under applicable law or by designation. Confidential Resources include medical, clinical, and mental-health professionals, and clergy when acting in that professional role in the provision of services; and any employee providing administrative, operational and/or related support for such providers in their performance of such services. Confidential Resources will not disclose information about Prohibited Conduct without the individual's written permission or as set forth in the Confidentiality section above. When individuals who otherwise are Confidential Resources receive information outside of the provision of services, the Confidential Resource is required to share that information with the Assistant Director of Institutional Equity and Title IX Coordinator. For example, a licensed counselor who receives a disclosure in the context of speaking at a prevention program would be required to share the information with the Assistant Director of Institutional Equity and Title IX Coordinator.

**The following are on-campus Confidential Resources:**

**Office of Counseling Services**

Room 200, Ridgway University Center  
(812) 488-2663

[counselingservices@evansville.edu](mailto:counselingservices@evansville.edu)  
<https://www.evansville.edu/counseling/>

The Office of Counseling Services is staffed by professional, licensed counselors and is available to all students. The office is open from 8:00 am to 4:30 pm Monday through Friday, with reduced hours in the summer. These hours may be adjusted by the University at any time. Appointments can be made by calling (812) 488-2663. Emergency counseling services are available after hours by calling the Office of Public Safety at (812) 488-2051, and asking for the counselor on call.

**Director of Religious Life**

Ridgway University Center 262  
(812) 488-5262

[religiouslife@evansville.edu](mailto:religiouslife@evansville.edu)  
<https://www.evansville.edu/religiouslife/>

The Office of Religious Life is staffed with licensed and ordained clergy in the United Methodist Church who provide pastoral care and counseling resources to the University of Evansville. Chaplains are best available by appointment or can be reached after hours by contacting the Office of Public Safety at (812) 488-2051.

**Crayton E. and Ellen Mann Health Center**

Sampson Hall  
(812) 488-2033

[healthcenter@evansville.edu](mailto:healthcenter@evansville.edu)  
<https://www.evansville.edu/offices/healthcenter/>

The Health Center is staffed and operated by a third party vendor and is available to all full-time students, as well as employees who are enrolled on UE health insurance. The University of Evansville Health Center is staffed by Nurse Practitioners, Registered Nurses and medical assistants who are under the supervision of a medical doctor of the third-party vendor. The Health Center is open from 8:00 am to 5:00 pm Monday through Friday during the fall and semesters, with reduced hours in the summer. The hours may be adjusted by the University at any time.

While these Confidential Resources will ordinarily be able to maintain the confidentiality of the information shared with them in the course of their duties, there are certain limited circumstances where they may be required by law to share information. Those circumstances include:

- If they believe there is imminent danger of self-harm, or harm to others.
- If there is reason to believe that child, elder, or dependent abuse has occurred.
- If you report being sexually assaulted and are under the age of 18.
- If the individual express threats of violence towards another person.
- If federal law enforcement officials request your information under the United States Patriot Act.
- Under court order, subpoena or as otherwise required by law.

Employees may obtain confidential counseling from the University's Employee Assistance Program, which can be accessed by contacting 1-888-293-6948.

- B. Responsible Employees** are expected to promptly report any information they learn about suspected Prohibited Conduct or potential violations of this Policy. All University employees, except for those that are designated as Confidential Resources, are considered Responsible Employees. For the purpose of this policy, Trustees are required to report potential violations of this Policy to the Office of Institutional Equity, notwithstanding the fact that they are not employees of the University.

Responsible Employees are expected to report all known information, including the identities of the parties, the date, time and location and any details about the reported incident to the Assistant Director of Institutional Equity and Title IX Coordinator. The Assistant Director of Institutional Equity and Title IX Coordinator may share reports with other University employees to ensure a coordinated institutional response. Responsible Employees may provide support and assistance to a Complainant, witness, or Respondent; but they cannot promise Confidentiality or withhold information about Prohibited Conduct. Failure by a Responsible Employee to report suspected Prohibited Conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

Responsible Employees are not required to report information disclosed at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose Prohibited Conduct (collectively, public awareness events). The University may provide information about Title IX and available University and community resources and support at public awareness events. When individuals who are designated as Responsible Employees also serve, at times, a dual role as Confidential Resources, the individuals should not report information that they receive while providing services as Confidential Resources (except as set forth in the Confidentiality section above). In addition, a Complainant may choose not to make a report in their own case, even if the Complainant would otherwise have reporting obligations as a Responsible Employee.

### **C. Clery Act Reporting**

Pursuant to the Clery Act, the University includes statistics about certain offenses in its Annual Security Report 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. The Clery Act also requires the University to issue timely warnings to the University community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the University withholds the names and other personally identifying information of Complainants when issuing timely warnings to the University community.

### **D. Mandatory Reporting of Child Abuse and Neglect**

In addition to the above reporting responsibilities, all University employees have an obligation to report known or suspected child abuse and neglect consistent with Indiana state law. Child Abuse can be reported to the Indiana Department of Child Services hotline at 1-800-800-5566.

## **X. Campus and Community Resources**

A Complainant or witness has many options, including seeking counseling or assistance from a Confidential Resource, making a report under this Policy, and/or making a report to law enforcement. The University encourages prompt reporting of Prohibited Conduct to the Assistant Director of Institutional Equity and Title IX Coordinator and law enforcement. The University also recognizes that deciding among these options can be difficult and is an intensely personal decision. Complainants and witnesses are encouraged to seek assistance from a Confidential Resource and to explore all potential reporting and support options.

### **A. Emergency Resources and Law Enforcement**

Emergency medical assistance and campus Safety and Security assistance are available 24/7 both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

To report Prohibited Conduct that is imminent, in progress, or threatened, call:

**University of Evansville:** The University’s Office of Public Safety at (812) 488-2051 or the Evansville Police Department at (812) 436-7896 or 911.

**Stone Family Center for Health Sciences:** IU Police Department/G4S Security at (812) 855-2425 or (812) 855-2421 or the Evansville Police Department at (812) 436-7896 or 911.

**Harlaxton College:** Lincolnshire Police at 101 or 999.

### **B. Medical Treatment and Preservation of Evidence**

Regardless of whether a report is filed with local law enforcement, individuals should preserve all evidence that could be relevant to any criminal charges that may be brought or that might be needed to obtain a protection order. Individuals who have been subjected to sexual assault are encouraged to obtain a physical examination by a Sexual Assault Nurse Examiner (SANE).

**University of Evansville and Stone Family Center for Health Sciences:**

Deaconess Hospital

[www.deaconess.com/Services/Emergency-Care/S-A-N-E](http://www.deaconess.com/Services/Emergency-Care/S-A-N-E)

Hours: 24/7

(812) 450-3405

St. Vincent's Hospital [healthcare.ascension.org/locations/indiana/ineva/evansville-ascension-st-vincent-evansville](https://www.healthcare.ascension.org/locations/indiana/ineva/evansville-ascension-st-vincent-evansville)  
Hours: 24/7  
(812) 485-4491

**Harlaxton College:**

Grantham Hospital  
<https://www.nhs.uk/Services/hospitals/Services/Service/DefaultView.aspx?id=345138>  
Hours: Daily from 8:00am - 6:30pm  
Manthorpe Rd, Grantham  
NG31 8DG  
01476 565232

Peterborough City Hospital  
<https://www.nwangliaft.nhs.uk/a-z-of-services/e/emergency-and-out-of-hours-care/> Hours: 24/7  
Edith Cavell Campus  
Bretton Gate, Peterborough  
PE3 9GZ  
01733 678000

Before obtaining a SANE examination, individuals should avoid showering, using the toilet, washing, applying soaps or lotions, changing clothes, combing hair, drinking, eating or altering their physical appearance. If you must change clothes, put them in a paper bag or wrap them in a clean sheet. Do not place these items in a plastic bag as the bag may distort evidence. It is also important not to disturb any evidence that may be present in the location where the offense occurred or destroy or delete any correspondence relative to the offense. Even if a SANE exam is not sought, all victims of violence should consider obtaining medical attention so that any issues relating to possible injury or disease from the incident may be addressed.

**C. Campus Resources**

Members of the University community may obtain information about resources relating to Prohibited Conduct from:

- Annie Sills, Assistant Director of Institutional Equity and Title IX Coordinator  
812-488-5261, [cs175@evansville.edu](mailto:cs175@evansville.edu)
- Keith Gehlhausen, Executive Director of Human Resources and Institutional Equity  
(812) 488-2943, [kg77@evansville.edu](mailto:kg77@evansville.edu)
- Dr. Rachel Carpenter, Vice President of Student Affairs/Dean of Students (812) 488-2500, [rc35@evansville.edu](mailto:rc35@evansville.edu)
- Dr. Rob Shelby, Chief Diversity Officer  
(812) 488-2949, [rs262@evansville.edu](mailto:rs262@evansville.edu)

The Assistant Director of Institutional Equity and Title IX Coordinator will provide Complainants with written notice about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services, as well as options and available assistance for changing academic, living, transportation and working situations, if requested, if reasonably available and regardless of whether reports are made to law enforcement. These supports are described in greater detail in the section on Supportive Measures.

**D. Community Resources**

In addition to the on-campus confidential medical and counseling resources outlined in the Confidential Resources section of this Policy, assistance and information relating to incidents involving sexual assault, intimate partner violence and stalking may also be obtained from these organizations not affiliated with the University. Be sure to ask each organization about its policy concerning confidentiality.

**University of Evansville and Stone Family Center for Health Sciences:**

**Holly's House:** Non-residential victim advocacy center  
750 N. Park Drive  
Evansville, IN 47710  
(812) 437-7233  
<https://www.hollyshouse.org>

**Albion Fellows Bacon Center:** Victim advocacy and shelter  
Domestic Violence Hotline: 812-422-5622  
Sexual Assault Hotline: 812-424-7273  
<https://www.albionfellowsbacon.org>

**RAINN:** National sexual assault hotline  
1-800-656-HOPE (4673) for 24/7 live chat or more information  
<https://www.rainn.org>

**Matthew 25:** HIV/AIDS services  
Old Post Office Plaza  
101 NW 1st St, Suite 215  
Evansville, IN 47708  
(812) 437-5192  
<http://matthew25clinic.org>

**Vanderburgh County Health Department:** HIV/STD clinic  
420 Mulberry Street  
Evansville, IN 47713  
(812) 435-2400  
<http://health.vanderburghcounty.in.gov>

### **Crisis Hotlines**

#### **Suicide Hotline:**



**Southwestern Indiana Mental Health Care Crisis Line:**  
812-423-7791

**Trevor Lifeline:**  
1-866-488-7386

**Trans Lifeline:**  
877-565-8860

#### **Harlaxton College:**

**Spring Lodge:** Sexual Assault Referral Centre  
01522 524 402 (9-5, M-F)  
0303 1234 0000 (After hours)  
[www.lpft.nhs.uk/spring-lodge/home](http://www.lpft.nhs.uk/spring-lodge/home)

**Lincolnshire Rape Crisis:** Rape/Sexual Abuse Counseling and Support Services  
18 Melville St  
Lincoln LN5 7HW  
0800 33 4 55 00  
[www.lincolnshirerapecrisis.org.uk/](http://www.lincolnshirerapecrisis.org.uk/)

## **XI. Reporting Options**

The University encourages all individuals to report Prohibited Conduct or a potential violation of this Policy to the Assistant Director of Institutional Equity and Title IX Coordinator, the Office of Public Safety, and/or to local law enforcement. A Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the University will assist a Complainant in contacting law enforcement at any time. Under limited circumstances (posing a threat to health or safety of any individual or to comply with applicable law), the University may independently notify law enforcement.

An individual may make a report to the University, to law enforcement, to neither, or to both. Campus Title IX processes and law enforcement investigations operate independently of one another, although the Assistant Director of Institutional Equity and Title IX Coordinator may coordinate information with law enforcement as part of the Initial Assessment. Anyone can make a report as follows:

**A. Make a report to the Assistant Director of Institutional Equity and Title IX Coordinator in person, by telephone, or email at:**

Ms. Annie Sills  
Assistant Director of Institutional Equity and Title IX Coordinator  
Center for Diversity, Equity, and Inclusion RUC 263 or Olmsted Administration Hall 118  
812-488-5261  
[cs175@evansville.edu](mailto:cs175@evansville.edu)  
[titleix@evansville.edu](mailto:titleix@evansville.edu)

**B. Make a report to local Law Enforcement**

A Complainant has the right to report, or decline to report, to law enforcement at any time. The University's investigation and adjudication processes are distinct from the criminal justice/law enforcement process. The University will assist a Complainant in contacting law enforcement or the Complainant may contact law enforcement directly.

**University of Evansville and Stone Family Center for Health Sciences:**

- Evansville Police Department at 812-436-7896 or 911.

**Harlaxton College:**

- Lincolnshire Police at 101 or 999.

**C. Make an anonymous report**

A Complainant is not required to reveal their identity in order to report an incident; however, an anonymous report may limit the ability to respond with an investigation or disciplinary action. An incident can be anonymously reported to the University at:

University of Evansville Office of Public Safety Report A Concern Form  
Campus Conduct Hotline

Although providing anonymous information may limit the ability of the University to investigate or impose discipline, it can help the University maintain accurate records regarding the number of incidents involving students, employees, and third parties; determine if there is a pattern of conduct with regard to a particular location, group or Respondent; and alert the campus community to potential dangers when appropriate.

A Complainant or witness also has the ability to make an anonymous report to local law enforcement by contacting:

**University of Evansville and Stone Family Center for Health Sciences:**

WE TIP Crime Hotline  
1-800-78-CRIME  
1-800-782-7463  
<https://wetip.com/>

**Harlaxton College:**

Crimestoppers  
0800 555111  
[crimestoppers-uk.org/](http://crimestoppers-uk.org/)

The University will assist a Complainant in contacting WE TIP/Crimestoppers or the Complainant may contact WE TIP/Crimestoppers directly.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue a Title IX report and a criminal complaint). When initiating any of the above options, an individual does not need to know whether they wish to request any particular course of action nor how to label what happened. As part of a report to the Assistant Director of Institutional Equity and Title IX Coordinator, an individual can also request Supportive Measures.

#### **D. Timeframe for Reporting**

Complainants and witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize the University's ability to respond promptly and effectively. The University does not, however, limit the timeframe for reporting. Depending on the relationship of the Respondent to the University, the University may not have the authority to impose disciplinary action. Where the University does not have Disciplinary Authority (for example, a report is made after a student has left or graduated or an employee no longer works for the University), the University will still seek to meet its Title IX obligations by evaluating the reported conduct, providing reasonably available Supportive Measures to the Complainant, assisting the Complainant in identifying external reporting options, and may take other appropriate action to address the reported conduct.

#### **E. Amnesty**

The University encourages reporting and seeks to remove barriers to reporting by providing amnesty for Complainants and witnesses who report Prohibited Conduct for potential conduct violations occurring at or near the time of the incident. In general, the University will not pursue disciplinary action against a student who makes a good faith report to the University as a Complainant or witness to Prohibited Conduct for personal consumption of alcohol or other drugs (underage or illegal) which would otherwise be a violation of the University's Drug and Alcohol Policies, provided the misconduct did not endanger the health or safety of others. The University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

#### **F. Requests for Anonymity**

Once a report has been shared with the Assistant Director of Institutional Equity and Title IX Coordinator, a Complainant may request that their identity not be shared with the Respondent (request for anonymity), that no investigation occur, or that no disciplinary action be pursued. The University will carefully balance this request in the context of the University's commitment to provide a safe and non-discriminatory environment for all University community members. The University will take all reasonable efforts to investigate and respond to the report consistent with a Complainant's request, but in order to pursue disciplinary action against a Respondent, the Respondent must be provided with sufficient notice of the reported conduct. In some circumstances, the Assistant Director of Institutional Equity and Title IX Coordinator may arrange for limited preliminary fact-finding by an Investigator to gain a better understanding of the context of the report or take other appropriate steps, including consulting with appropriate administrators. For more information, see the section on **Balancing Complainant Autonomy with University Responsibility to Investigate**.

#### **G. Coordination with Law Enforcement**

A Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the University will assist a Complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any University community member, the University may independently notify law enforcement. An individual may make a report to the University, to law enforcement, to neither, or to both. The University's resolution process and law enforcement investigations may be simultaneously pursued but will operate independently of one another. The University will, when appropriate, coordinate information with law enforcement if law enforcement is notified.

### **XII. Supportive Measures**

Upon receipt of a report of Prohibited Conduct, the University will provide reasonable and appropriate Supportive Measures. A Supportive Measure is a non-disciplinary, non-punitive individualized service offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent at any time before or after a Formal Complaint is filed or where no Formal Complaint has been filed. Supportive Measures are designed to preserve access to the University's educational programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of the Complainant, the Respondent or broader University community; maintain the integrity of the investigative and/or resolution process; and deter retaliation.

Supportive measures may include counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus, and other similar measures.

**Available Supportive Measures** include, but are not limited to:

- Facilitating access to counseling and medical services.
- Guidance in obtaining a sexual assault forensic examination.
- Assistance in arranging rescheduling of exams and assignments and extensions of deadlines.
- Academic support.



- Assistance in requesting long-term academic accommodations through the Office of Counseling Services if the individual qualifies as an individual with a disability.
- Change in class schedule, including the ability to transfer course sections or withdraw from a course.
- Allow either a Complainant or a Respondent to drop a class in which both parties are enrolled in the same section.
- Voluntary changes in the Complainant's or Respondent's University work schedule or job assignment.
- Change in campus housing.
- Escort and other safety planning steps.
- Mutual "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals.
- Voluntary leave of absence.
- Referral to resources to assist in obtaining a protective order.
- Referral to resources to assist with any financial aid, visa, or immigration concerns.
- Any other remedial measure that does not interfere with either party's access to education can be used to achieve the goals of this Policy.
- Reasonable Change in the Respondent's class schedule.
- Reasonable Change in the Respondent's University work schedule or job assignment.
- Reasonable Change in the Respondent's campus housing.
- Any other reasonable restrictive measure that can be used to achieve the goals of this Policy

The availability of Supportive Measures will be determined by the specific circumstances of each report. The University will consider a number of factors in determining which Supportive Measures to take, including the needs of the student or employee seeking Supportive Measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the parties; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether court proceedings have been used to protect any parties (e.g., protective orders). The University will work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

The Assistant Director of Institutional Equity and Title IX Coordinator is responsible for ensuring the implementation of Supportive Measures and coordinating the University's response with the appropriate offices on campus. The Assistant Director of Institutional Equity and Title IX Coordinator has the discretion to impose and/or modify any Supportive Measure based on all available information and is available to meet with a Complainant or Respondent to address any concerns about the provision of Supportive Measures. The University will maintain the privacy of any Supportive Measures provided under this Policy to the extent practicable.

The University will provide reasonable Supportive Measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the University.

## **A. Emergency Removal**

Certain circumstances may warrant removing a student Respondent from a University education program or activity. The University may remove a student Respondent on an emergency basis from University property or employment, education or research programs or activities. The determination of whether to remove a student may be made by the Assistant Director of Institutional Equity and Title IX Coordinator in consultation with other University employees, as necessary. This decision may be made at any point in the process.

Before imposing an emergency removal, the University will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct and justifies removal of the Respondent from the University program or activity.

The Assistant Director of Institutional Equity and Title IX Coordinator will promptly provide the Respondent with written notice of any removal and an opportunity to challenge the removal. During any challenge, the Respondent will remain off-campus and must comply with the notice of removal. That notice shall include a statement that the use of any information the Respondent chooses to provide may subsequently be used in implementing any aspect of this Policy, including the investigation and adjudication. The Respondent will have 72 hours to submit a written challenge of the safety and risk analysis to the Assistant Director of Institutional Equity and Title IX Coordinator. The Assistant Director of Institutional Equity and Title IX Coordinator will assign the matter to be reviewed by a decision-maker to evaluate the information in

support of the individualized safety and risk analysis and any information provided by the Respondent and the Complainant, as applicable. The decision-maker will submit a final decision in writing to the Respondent and the Complainant within three (3) business days, with a copy to the Assistant Director of Institutional Equity and Title IX Coordinator.

## **B. Administrative Leave**

Following a report of Prohibited Conduct, the University may place a non-student employee Respondent on administrative leave, with or without pay.

## **XIII. Overview of the University's Resolution Processes**

The University is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this Policy. To implement this Policy, the University has developed a formal and an informal resolution process to resolve reports of Prohibited Conduct:

- **Informal Resolution:** an informal framework that includes informal or restorative options for resolving reports that typically do not involve disciplinary action against a Respondent.
- **Formal Resolution:** formal procedures that involve an investigation, adjudication and, if appropriate, the imposition of sanctions.

In all formal and informal resolution processes, the University will treat Complainants and Respondents equitably by offering Supportive Measures to a Complainant when the University has notice of potential Prohibited Conduct, and by following either the formal or informal resolution process before the imposition of any disciplinary sanction against a Respondent. Upon receipt of a report of Prohibited Conduct, the University will conduct an initial assessment of the available information and consider the Complainant's stated interests, as well as the University's compliance obligations, in determining how to proceed.

A report of Prohibited Conduct may be resolved through: provision of Supportive Measures only; pursuing the formal resolution process, which involves a prompt, equitable and impartial investigation, a live hearing, and an appeal; or, pursuing an informal resolution process, which requires the voluntary and written consent of the Complainant, the Respondent and the University.

A Complainant is always entitled to reasonably available Supportive Measures, regardless of whether a formal or informal resolution process is initiated.

## **A. Time Frame for Resolution**

The University will seek to complete the appropriate resolution process as promptly as possible, consistent with the need to conduct sensitive and informed fact-gathering to ensure an equitable resolution. The Policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process (typically set forth in business days), but the University may extend any timeframe in this Policy for good cause. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in the University calendar, University finals periods, the complexity of the investigation, the volume of information, number of witnesses, length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this Policy. Reasonable requests for delays by the parties may serve to extend the time period for resolution of the report.

The Assistant Director of Institutional Equity and Title IX Coordinator, in consultation with the Investigators, has the authority to determine whether an extension is required or warranted by the circumstances. The University will notify the parties in writing of any extension of the timeframes for good cause, the reason for the extension and the length of the extension. Although cooperation with law enforcement may require the University to suspend the fact-finding portion of a Title IX investigation temporarily, the University will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin or conclude its own investigation and, if needed, will take immediate steps to provide appropriate Supportive Measures.

Investigations will proceed according to the timeframes in this Policy to the extent possible during the summer and at other times when classes at the University are not in session. The Assistant Director of Institutional Equity and Title IX Coordinator will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation.

Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings and any related review of the finding, apply equally to both the Complainant and the Respondent.

## **B. Advisor**

Throughout the informal or formal resolution process, each party has the right to be accompanied at any meeting or hearing by an Advisor of their choice. The Advisor may be any person, including an attorney. A party may decline to use an Advisor for any or all stages of the formal or informal resolution process, with the exception of the hearing, where any questioning of the other party must be conducted by the party's Advisor. If a party does not have an Advisor for the hearing, the University will provide an Advisor, free of charge, who may be, but is not required to be, an attorney, to attend the hearing and conduct questioning on behalf of that party.

The Advisor may observe, provide support, and provide guidance or advice to the party (in a non-disruptive manner). With the exception of the Advisor's live questioning during the hearing, they may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt or interfere with meetings and/or proceedings. An Advisor should plan to make themselves reasonably available; the University will not unduly delay the scheduling of meetings or proceedings based on an Advisor's unavailability. An Advisor may be asked to meet with a University administrator in advance of any proceedings to understand the expectations of the role, privacy considerations and appropriate decorum. An Advisor may be removed for failure to follow these expectations.

The Advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review), access to the investigation report, and to cross-examine the other party and all witnesses during the hearing.

## **C. Obligation to Provide Truthful Information**

All University community members are expected to provide truthful information in any proceeding under this Policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions, in accordance with the Students' Rights and Responsibilities section of the University of Evansville Student Handbook, Student Code of Conduct section of the Harlaxton College Student Handbook, the University of Evansville Employee Code of Conduct, and other applicable University policies and procedures. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

# **XIV. Intake and Initial Assessment**

## **A. Response to a Report of Prohibited Conduct**

Any person may report Prohibited Conduct to the Assistant Director of Institutional Equity and Title IX Coordinator, the Office of Public Safety, or the other reporting options cited above. Upon receipt of a report of Prohibited Conduct, the Assistant Director of Institutional Equity and Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint, explain to the Complainant the process for filing a Formal Complaint, and consider the Complainant's wishes with respect to Supportive Measures.

During the Initial Assessment, a Complainant may request Supportive Measures only, or may file a Formal Complaint. Alternatively, as described below, the Assistant Director of Institutional Equity and Title IX Coordinator may determine that it is appropriate to file a Formal Complaint on behalf of a Complainant. After the filing of a Formal Complaint, the Complainant may decide to seek Informal Resolution in lieu of a formal resolution process (investigation, hearing and appeal). A Complainant is always entitled to reasonably available Supportive Measures, regardless of whether a formal or informal resolution process is initiated.

The Assistant Director of Institutional Equity and Title IX Coordinator will also determine whether the Policy applies to the report and whether the reported conduct falls within the jurisdiction and scope of the Policy and/or Title IX.

### **(1) Overview of Initial Assessment**

As part of the Initial Assessment, the Assistant Director of Institutional Equity and Title IX Coordinator will:

- Promptly contact the Complainant to discuss the availability of Supportive Measures.
- Consider the Complainant's wishes with respect to Supportive Measures.
- Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the Complainant, the Respondent, any witness and/or any other individual with knowledge of the reported incident.
- Address immediate physical safety and emotional well-being needs.
- Conduct an individualized analysis of safety and risk for the campus community to determine whether a student Respondent's presence in the University's education programs or activities poses an immediate threat to the physical health or safety of any student or other individual that justifies removal.

- Notify the Complainant of their right to contact (or decline to contact) law enforcement or seek a civil protection order.
- Notify the Complainant of the right to seek medical treatment.
- Notify the Complainant of the importance of preservation of evidence.
- Refer the report to the Office of Public Safety to assess the reported conduct for any Clery Act obligations, including entry in the daily crime log or issuance of a timely warning.
- Provide the Complainant with written information about on and off campus resources.
- Provide the Complainant with a copy of this Policy and an explanation of the procedural options, including seeking Supportive Measures, the process for filing a Formal Complaint, the formal resolution process and informal resolution.
- Notify the Complainant of the right to be accompanied at any meeting or proceeding by an Advisor of their choice, and that the University will provide an Advisor, without fee or charge, to conduct questioning on behalf of that party at the hearing if they do not have an Advisor.
- Assess the available information for any pattern of conduct by Respondent.
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns).
- Explain the University's policy prohibiting retaliation and how to report acts of retaliation.
- Determine the age of the Complainant; and if the Complainant is a minor, make the appropriate report of suspected abuse consistent with Indiana state law.

The Initial Assessment will be conducted promptly and the time frame for the initial assessment will be tailored to the context and circumstances. The University will seek to complete the Initial Assessment within 10 business days but recognizes that there may be circumstances in which the Initial Assessment takes longer based on the availability of the Complainant or other necessary information, a Complainant's request to maintain privacy or not seek disciplinary action, or other factors outside of the University's control. The University understands that a Complainant may engage in delayed decision-making, which may impact the timing of the conclusion of the initial assessment.

## **(2) Formal Complaint**

The formal resolution process (investigation, hearing and appeal) is initiated by the filing of a Formal Complaint. A Formal Complaint is a written document submitted to the Assistant Director of Institutional Equity and Title IX Coordinator by the Complainant alleging that a Respondent engaged in Prohibited Conduct and requesting an investigation. The Formal Complaint may be submitted to the Assistant Director of Institutional Equity and Title IX Coordinator in person, by mail, or by electronic mail. The Assistant Director of Institutional Equity and Title IX Coordinator can be reached at:

Ms. Annie Sills  
 Assistant Director of Institutional Equity and Title IX Coordinator  
 University of Evansville  
 Center for Diversity Equity and Inclusion, RUC Room 263 or Olmsted Administration Hall 118  
 1800 Lincoln Ave.  
 Evansville, IN. 47722  
 (812) 488-5261  
[cs175@evansville.edu](mailto:cs175@evansville.edu)  
[titleIX@evansville.edu](mailto:titleIX@evansville.edu)

The Complainant may also contact the Assistant Director of Institutional Equity and Title IX Coordinator directly for assistance in making a Formal Complaint. Where a Complainant files a Formal Complaint and the reported conduct falls within the scope and jurisdiction of the Policy, the Assistant Director of Institutional Equity and Title IX Coordinator must pursue either a formal or informal resolution process.

## **B. Dismissal of a Formal Complaint**

The Assistant Director of Institutional Equity and Title IX Coordinator will determine whether the conduct alleged in the Formal Complaint falls within the scope of the Policy and the definitions of Prohibited Conduct. The Title IX regulations require the University to dismiss some or all of the allegations in the Formal Complaint related to Title IX Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence and Stalking, if: 1) the conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment as defined in the Title IX regulations; 2) the conduct did

not occur within University's education program or activity; or, 3) the conduct did not occur against a person in the United States. This means that the University may be required by law to dismiss some or all of the allegations in the Formal Complaint under Title IX and provide the parties notice of the dismissal and the opportunity to appeal that dismissal.

While Formal Complaints falling outside of the Title IX regulations will be dismissed for Title IX purposes, where such conduct otherwise constitutes Prohibited Conduct and falls within the scope of this Policy, it will still be addressed and proceed to either the formal or informal resolution process.

In addition, the Assistant Director of Institutional Equity and Title IX Coordinator may dismiss a Formal Complaint, at any stage of the process, in any of the following three circumstances: (1) the Complainant notifies the Assistant Director of Institutional Equity and Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the University; (3) or specific circumstances, including a Complainant's decision not to respond to outreach from the University, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any time in the process and will be communicated to all parties in writing. If some or all of the allegations in the Formal Complaint have been dismissed, the parties will receive written information about how to appeal the dismissal of the Formal Complaint.

### **C. Balancing Complainant Autonomy with University Responsibility to Investigate**

The University endeavors to respect the wishes of a Complainant to not pursue a Formal complaint. If a Complainant requests that their name or other personally-identifiable information not be shared with a Respondent, that no investigation into a particular incident be pursued, and/or that no disciplinary action be taken against the Respondent, the University will balance this request against its commitment to a safe, non-discriminatory learning, living, and working environment for all community members, including for the Complainant. In particular, the Assistant Director of Institutional Equity and Title IX Coordinator will take into account the Complainant's articulated concerns, the safety of the campus community, fairness to all individuals involved, and the University's obligations under Title IX.

In these instances, before taking any further investigative steps, the Assistant Director of Institutional Equity and Title IX Coordinator will discuss any concerns with the Complainant and seek to address and remedy barriers to reporting based upon concerns about retaliation or questions about procedural options and potential outcomes.

In evaluating the appropriate manner of resolution, including whether the Assistant Director of Institutional Equity and Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, the Assistant Director of Institutional Equity and Title IX Coordinator will consider a range of factors, including:

- the totality of the known circumstances;
- the nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- the respective ages and roles of the Complainant and Respondent;
- the risk that the Respondent may commit additional acts of Prohibited Conduct or other violence, taking into consideration, among other matters, any known history of arrests, violence, or other complaints of Prohibited Conduct involving the Respondent, any threats of future violence made by the Respondent, and whether multiple Respondents were involved in the reported incident;
- whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- the Complainant's interest in the University not pursuing an investigation or disciplinary action and the impact of such actions on the Complainant;
- whether the University possesses other means to obtain relevant evidence;
- fairness considerations for both the Complainant and the Respondent;
- the University's obligation to provide a safe and non-discriminatory environment; and
- any other available and relevant information.

Where possible based on the facts and circumstances, the University will take all reasonable steps to respond to the report consistent with the Complainant's requested course of action, but its ability to do so may be limited based on the reported information. Where the balance of factors requires the Assistant Director of Institutional Equity and Title IX Coordinator to file a Formal Complaint on behalf of the Complainant, the Assistant Director of Institutional Equity and Title IX Coordinator will inform the Complainant in writing about the chosen course of action.

#### D. Consolidation of Formal Complaints

The University may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances. All parties will receive simultaneous, timely notification of any such consolidation. During the course of the investigation, the investigation may reveal the existence of additional or different potential policy violations, which may also be consolidated following notification to the parties of the amended notice of investigation.

#### E. Determination after the Initial Assessment: Scope and Manner of Resolution

The Assistant Director of Institutional Equity and Title IX Coordinator will consider the nature of the report, the safety of the individual and the campus community, and the Complainant's expressed preference for the manner of resolution in determining the appropriate course of action to achieve the goals of Title IX and the Policy. The range of available resolution options include:

<b>No Further Action</b>	<b>Supportive Measures Only</b>	<b>Formal Resolution</b>	<b>Informal Resolution</b>
(which may involve referral to another University policy)	(regardless of whether a Formal Complaint is filed)	(following a Formal Complaint by the Complainant or the Assistant Director of Institutional Equity and Title IX Coordinator)	(following a Formal Complaint by the Complainant or the Assistant Director of Institutional Equity and Title IX Coordinator)

At the conclusion of the Initial Assessment, the Complainant will receive a written notice of the determination about how the University will proceed.

### XV. Informal Resolution

The University may resolve reports through Informal Resolution (which may include the possibility of mediation), as appropriate based on the circumstances. Informal Resolution is not appropriate for all cases of Prohibited Conduct, and the University retains the discretion to determine which cases may be appropriate for Informal Resolution and the type of Informal Resolution process that may be appropriate in a specific case.

Informal Resolution is available only once a Formal Complaint has been filed, prior to a determination of responsibility, and if the Complainant, Respondent, and the University voluntarily consent to the process in writing. Informal Resolution is not available in cases in which an employee is alleged to have sexually harassed a student.

Informal Resolution may involve agreement to pursue individual and/or community remedies that are designed to address a report of Prohibited Conduct; targeted or broad-based educational programming or training; requiring counseling; providing housing accommodations for student Complainants; making academic accommodations for student Complainants or providing workplace accommodations for employee Complainants; and/or any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. With the voluntary consent of the parties, Informal Resolution may be used to impose agreed-upon disciplinary sanctions. Any person who facilitates an Informal Resolution will be trained on the definition of Prohibited Conduct, including Sexual Harassment; the scope of the University's education program or activity; how to conduct an informal resolution process, including how to serve impartially, and be free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing Informal Resolution, the Assistant Director of Institutional Equity and Title IX Coordinator will send written notice to the parties describing:

1. The allegations at issue;
2. The requirements of the Informal Resolution;
3. The circumstances under which the parties are precluded from resuming a Formal Complaint arising from the same allegations;
4. The right to end the Informal Resolution process at any time prior to resolution and resume the Formal Complaint process;
5. The consequences resulting from participating in the Informal Resolution, including that the records and communications created or maintained as part of the Informal Resolution process may be viewed by parties, or later used or considered in the Formal Complaint process, including at a hearing.

If an agreement acceptable to the University, the Complainant and the Respondent is reached through Informal Resolution, the matter is considered to be resolved, and the parties will be precluded from filing another Formal Complaint arising from the same set of facts or circumstances. Prior to reaching a resolution, any party can withdraw from the Informal Resolution

process and resume the Formal Complaint process. The Assistant Director of Institutional Equity and Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which will typically be complete within 60 business days of the initial report. Records are maintained in accordance with the Office of Institutional Equity's Record Retention Policy.

## **XVI. Formal Resolution Process: Investigation**

The University will conduct a prompt and equitable investigation to gather information relevant to the determination of whether there is sufficient information, by a Preponderance of the Evidence, to determine that a Policy violation occurred. The investigation will be impartial and will be conducted by trained Investigators who have no actual bias or conflict of interest for or against the Complainant or Respondent.

During the investigation and disciplinary proceedings, both the Complainant and Respondent have equitable opportunities, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an Advisor of their choice to any meeting; to timely and equal access to information that will be used in disciplinary proceedings; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction and rationale; and to appeal the outcome.

The Investigators, not the parties, are responsible for gathering relevant evidence. The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution and are encouraged to preserve relevant evidence. In the event that a party declines to voluntarily provide material information, the University's ability to conduct a prompt, thorough and equitable investigation may be impacted.

### **A. Initiating an Investigation**

When the decision is made to initiate an investigation, the University will designate two Investigators to conduct a prompt, thorough, fair, and impartial investigation. The Investigators may be University employees and/or external Investigators. Any Investigator used by the University will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; the definition of Sexual Harassment in the Title IX regulations; the scope of the University's education program and activity; how to conduct an investigation that is fair and impartial, providing the parties with notice and a meaningful opportunity to be heard, protecting the safety of all participants while promoting accountability; how to create an Investigative report that fairly summarizes relevant evidence; and, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The Investigators will be impartial and free from actual bias or conflict of interest for or against the Complainant or Respondent. If either party believes an assigned Investigator has a conflict of interest or bias, they may notify the Assistant Director of Institutional Equity and Title IX Coordinator, who will determine if a different Investigator should be appointed.

### **B. Notice of Investigation**

The Assistant Director of Institutional Equity and Title IX Coordinator will notify the Complainant and the Respondent, in writing (typically via e-mail to each party's University e-mail address) of the following information: (1) the names of the Complainant and the Respondent; (2) the date, time (if known), location, and a brief summary of the reported conduct; (3) the reported Policy violation(s); (4) the presumption that the Respondent is not responsible unless determined by the Disciplinary Authority; (5) the right to an Advisor of their choice, who may or may not be an attorney; (6) the name of the Investigators; (7) information about the parties' participation options in the process; (8) the prohibition against Retaliation; (9) the importance of preserving any potentially relevant evidence in any format; (10) how to challenge participation by the Investigators on the basis of a conflict of interest or bias; (11) access to Counseling Services for students and/or Employee Assistance Program for employees; (12) a list of Supportive Measures available to parties and (13) a copy of this Policy. If, at any time, the investigation reveals the existence of additional or different potential violations of this Policy, the Assistant Director of Institutional Equity and Title IX Coordinator will issue a supplemental notice of investigation.

### **C. Acceptance of Responsibility**

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the Policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential Policy violations, the Investigators will complete an investigative report of all information gathered to date and refer the matter to the Disciplinary Authority for sanctioning as described below. Where both parties and the University agree, the matter may also be resolved through the Informal Resolution process.

## D. Investigative Steps

During an investigation, the Investigators will seek to meet separately with the Complainant, Respondent, and relevant witnesses. The Investigators are responsible for gathering inculpatory and exculpatory evidence directly related to the Formal Complaint. The Investigators will send written notice of the interview date, time, and location, name of participants and purpose of the interview to the parties and witnesses, in sufficient time for the party to prepare and participate.

The Investigators will interview the parties, and any witnesses likely to have information directly related to the Formal Complaint. The Investigators will also gather other related information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person), and other electronic records as appropriate.

At the conclusion of the investigation, the Complainant and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation that is directly related to the allegations, including information shared by the Complainant or the Respondent during their interviews or through evidence either provides.

### (1) Witnesses

Both the Complainant and Respondent have the option to provide names of potential witnesses to the Investigators. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, the parties, or related matters. Witnesses may also be offered to provide subject matter expert information (See Other Evidence: Site Visits and Experts below).

Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be included in the written investigation report, which the parties will have the opportunity to review at the conclusion of the investigation. Witnesses may be asked to participate in the hearing in response to the information gathered by the Investigators.

### (2) Additional Evidence

Both the Complainant and the Respondent are permitted to provide other relevant evidence to the Investigators. Evidence may be inculpatory or exculpatory. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the Complainant or the Respondent with the Investigators will be provided to the other party. The Investigators may also consider additional documents, items, or other relevant information.

During the course of the investigation, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigators. The Investigators may consider such information in the investigation and will also share any information about retaliation or violation of the terms of a Supportive Measure with the Assistant Director of Institutional Equity and Title IX Coordinator for further action.

### (3) Relevance

The University will not restrict the ability of either party to gather and present relevant evidence. Evidence is relevant if it makes a material fact more or less probable than it would be without the evidence. In general, the Investigators have the discretion to determine the relevance and probative value of information proffered or received. At the live hearing, as further described below, the Disciplinary Authority has the discretion to determine whether questions posed by the party's Advisor are relevant, and only relevant questions may be asked of parties or witnesses at the hearing.

In addition, the Investigators and Disciplinary Authority will be guided by the following evidentiary considerations:

- **Prior or Subsequent Conduct of the Respondent:** Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct so distinctive and so closely resembling either party's account of the encounter as to tend to prove a material fact may be considered. The Investigators will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
- **Prior Sexual History of the Complainant:** 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: 1) offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or, 2) 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. As set



forth in the consent definition above, however, previous relationships or prior consent cannot imply consent to future sexual acts. The Investigators, in consultation with the Assistant Director of Institutional Equity and Title IX Coordinator, will assess whether information related to prior sexual history makes a material fact in the investigation more or less likely. Where a sufficient informational foundation exists for the inclusion of prior sexual history, the Investigators will provide notice to both parties of the scope of any inclusion of such information in the investigative report. The parties will have a full and fair opportunity to respond to the information included in the investigative report.

**(4) Social Media and Personal Communications**

The Investigators may also consider information publicly available from online sources that comes to the attention of Investigators. The University does not actively monitor online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witness should bring online information to the attention of the Investigators if they believe it is relevant. The Investigators may also consider communications involving or relating to one or both parties that either party brings to the attention of the Investigators or that is provided by the parties in response to a request by the Investigators. The Investigators may also seek a review of information available on University devices or servers, consistent with the University's technology policies.

**(5) Other Evidence: Site Visits and Experts**

The Investigators may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigators may consult with relevant experts when deemed appropriate and necessary by the University. If the Investigators or the Disciplinary Authority determine that expert witness testimony is necessary, then the University would secure attendance and be responsible for costs. If either party wishes to provide expert testimony or evidence, they are solely responsible for securing attendance of any expert witness at a hearing, and for the costs or fees associated with any expert report or testimony.

**(6) Medical and Counseling Records**

The Investigators 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. If a person voluntarily chooses to share medical or counseling records with the Investigators, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond.

**(7) Expectations of the Parties**

The University expects all members of the University community to cooperate fully with the investigation and disciplinary procedures. It is understood that there may be circumstances in which a Complainant or Respondent wish to limit their participation, and the University will respect the choice of the Complainant or Respondent as to how to engage in proceedings under this Policy. The University may, however, move forward with formal resolution without the participation of a party or parties.

The University will not draw any adverse inference solely from a Complainant's or Respondent's decision not to participate in the investigation or any form of resolution under this Policy; however, the Complainant or Respondent should be aware that declining to participate in the investigation may impact the timing and outcome of the case.

**(8) Effect of Withdrawal**

At any time, the University may place an administrative hold on the Respondent's University transcript or defer or withhold the award of the Respondent's degree. Even if a Respondent withdraws from the University, the Assistant Director of Institutional Equity and Title IX Coordinator may proceed with further action as necessary to eliminate, prevent or address any impacts of the reported conduct.

**(9) Safeguarding the Privacy of Complainants and Respondents**

As stated above, the University will not restrict the ability of either party to gather and present relevant evidence. Individuals involved in investigations or disciplinary proceedings under this Policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation.

While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them during the process. All parties, however, are encouraged to maintain the privacy of Family Educational Rights and Privacy Act (FERPA)-protected and/or sensitive information gathered or learned in the process.

**(10) Timing of Investigation**

The Investigators will provide periodic updates to the parties about the status of the investigation, with a goal to complete the fact-gathering portion of the investigation within approximately 50 business days.

### **(11) Coordination with Law Enforcement**

If there is a concurrent criminal investigation, the University will seek to work in a collaborative manner in order to respect the integrity of external investigations and University investigations. This may include contacting the law enforcement agency that is conducting any investigation to inform that agency that a University investigation is also in progress, attempting to ascertain the status of the criminal investigation, and seeking to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

### **(12) Evidence Review**

At the conclusion of their fact-gathering, the Investigators will make information gathered in the investigation available for review by the parties and their Advisors. Both parties and their Advisors will be given equal opportunity to inspect and review, either in hard copy or an electronic format, any evidence obtained by the Investigators that is directly related to the allegations submitted in the Formal Complaint. This includes evidence that the University does not intend to rely on in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Each party will have ten business days to submit a written response to the Investigators, which the Investigators will consider prior to the completion of the investigative report. In the written submission, the parties may offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency, and reliability of the investigation. All collected evidence, regardless of inclusion in the investigative report, should be available during the hearing.

As necessary, the Investigators will designate reasonably prompt timeframes to ensure a timely completion of the process while also providing an adequate opportunity for both parties to respond thoroughly to the information gathered during the investigation. In the absence of good cause, information that could have been learned that is not provided to the Investigators upon review of the information gathered will not be considered in the determination of responsibility for a violation of the Policy.

### **(13) Investigative Report**

Upon the conclusion of the evidence review by the Complainant and Respondent (including any additional investigative steps requested by the parties or identified by the Investigators, normally within ten business days after receipt and consideration of additional comments, questions and/or information from the parties), the Investigators will provide the Assistant Director of Institutional Equity and Title IX Coordinator with an investigative report, who will then simultaneously share with the Complainant, Respondent, and appropriate Disciplinary Authority in writing (typically via e-mail to each party's University e-mail address).

The investigative report will include both inculpatory and exculpatory facts. As noted above, the Investigators have the discretion to determine the relevance of any witness or other evidence. The investigative report will be sent to each party and their Advisors in an electronic format or a hard copy, for their review and written response. If a party disagrees with the Investigators' determinations about relevance, the party can make that argument in the party's written response to the investigative report and to Disciplinary Authority at any hearing held.

## **XVII. Formal Resolution Process: Hearing and Appeal**

The University's formal resolution process is designed to identify and implement a tailored and individual response intended to address Prohibited Conduct, while supporting the University's educational mission, legal obligations and commitment to Title IX.

### **A. Notice of Hearing**

The Complainant and Respondent will be notified in writing of the date, time, and location of the hearing; the charges to be reviewed by the Disciplinary Authority, including the date, time, location and factual allegations concerning the violation; the provisions of the Policy alleged to have been violated; the name of the Disciplinary Authority; how to challenge participation of the Disciplinary Authority on the basis of conflict of interest or bias; the right to have an Advisor present at the hearing and conduct questioning on the party's behalf; that the University will provide an Advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing if the party does not have an Advisor present for the hearing; how to request that witnesses be present at the hearing; information about the hearing format; and the sanctions that may be imposed. The Respondent and Complainant will be provided the Notice of Hearing at least ten days prior to the date of the hearing. The time frame in which the hearing is conducted may be extended for good cause at the discretion of the Assistant Director of Institutional Equity and Title IX Coordinator. Good cause may include the availability of the parties, the availability of witnesses, the timing of semester breaks, or any other extenuating circumstances. Hearings may be scheduled whenever the University is officially open (including summer and winter breaks).

## **B. Selection of Disciplinary Authority**

The Disciplinary Authority will be either an external professional appointed by the University or an internal administrator. Any Disciplinary Authority used by the University will be free from conflicts of interest and bias for or against either party; receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking; the scope of the University's education program or activity; how to conduct a hearing and adjudicate in a manner that is fair and impartial by avoiding prejudgment of the facts at issue; technology that will be used at a live hearing; and on issues of relevance of questions and evidence. Training materials will be posted on the University's Office of Institutional Equity webpage. If either party believes the Disciplinary Authority has a conflict of interest or bias, they may notify the Assistant Director of Institutional Equity and Title IX Coordinator, who will determine if a designee should be appointed.

The role of the Disciplinary Authority is to provide all parties with an equitable opportunity to be heard, to make relevance determinations, and to objectively evaluate all relevant inculpatory and exculpatory evidence in order to reach a full and fair determination as to responsibility and imposition of any sanction, should there be a finding of responsibility. The Disciplinary Authority will review the investigative report and any written statements provided by the parties in response to the investigative report, all exhibits, and any additional relevant evidence introduced at the hearing. The Disciplinary Authority will determine whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility as to each element of each Policy violation at issue. The Disciplinary Authority may reach credibility determinations but may not base credibility determinations on a person's status as a Complainant, Respondent, or witness. Where a Complainant or Respondent declines to participate in a hearing, the Disciplinary Authority may not make an adverse inference against that party.

The Assistant Director of Institutional Equity and Title IX Coordinator is administratively responsible for coordinating all aspects of the formal resolution process. For cases involving student Respondents, the Assistant Director of Institutional Equity and Title IX Coordinator may utilize the Office of the Dean of Students for administrative assistance in coordinating the disciplinary process. For cases involving employee-Respondents, the Assistant Director of Institutional Equity and Title IX Coordinator may utilize the Office of Human Resources for administrative assistance in coordinating the disciplinary process.

The Executive Director of Human Resources and Institutional Equity, or their designee, will serve as an advisor to the Disciplinary Authority. In all instances, the Disciplinary Authority may consult with the Executive Director of Human Resources and Institutional Equity or their designee to ensure that the sanction(s) and/or remedies satisfy the University's obligation to eliminate the Prohibited Conduct, prevent its recurrence and address its effects.

\*For tenured and tenure track faculty Respondents who may be subject to termination or suspension, the Disciplinary Authority is outlined below in the Adjudication and Appeal Process for Tenured and Tenure Track Faculty section.

## **C. Impact or Mitigation Statements**

In the time frame directed by the Assistant Director of Institutional Equity and Title IX Coordinator, the Complainant and Respondent may submit a written impact or mitigation statement for consideration by the Disciplinary Authority. The decision whether to provide an impact or mitigation statement is completely voluntary.

An impact statement is written information from the Complainant regarding how the Prohibited Conduct has affected them and the Complainant's views on an appropriate sanction. Impact statements may include a description of: emotional impacts caused by the Prohibited Conduct; negative social or educational consequences arising from the Prohibited Conduct; medical or psychological consequences sustained as a result of the Prohibited Conduct; the Complainant's view on the Prohibited Conduct; or the Complainant's view on the appropriate sanction.

A mitigation statement is written information from the Respondent regarding any potential mitigating factors. Mitigation statements may include a description of: the Respondent's previous good character; worthy social or academic contributions and public service; whether the Respondent accepted responsibility for the Prohibited Conduct; cooperation with the investigation; the Respondent's mental or physical health; the Respondent's view on an appropriate sanction; and the likely effect of the sanctions on Respondent.

The Assistant Director of Institutional Equity and Title IX Coordinator will review all information submitted in an impact statement or mitigation statement for relevance and appropriateness and may determine that some or all of the information submitted will not be provided to the Disciplinary Authority. Both parties will receive a copy of the impact or mitigation statement provided to the Disciplinary Authority.

#### **D. Adjudication and Appeal Process for Tenured and Tenure Track Faculty**

An external Disciplinary Authority will review the investigative report for tenured and tenure track faculty Respondents prior to a Disciplinary Authority hearing to assess whether the reported conduct could result in the termination or suspension of the faculty member. If the external Disciplinary Authority determines termination or suspension could be an appropriate sanction if the tenured and tenure track faculty Respondent is found responsible, the adjudication and appeal of the case will be handled in accordance with the University's Tenure/Tenure Track Faculty Suspension and Termination Policy.

If the external Disciplinary Authority determines that termination or suspension may not be an appropriate sanction for reported conduct of a tenured and tenure track faculty Respondent, the Disciplinary Authority will be the external Disciplinary Authority and the faculty member will be subject to the adjudication and appeal policies outlined below. However, if at any time during the Disciplinary Authority hearing, the external Disciplinary Authority determines termination or suspension could be an appropriate sanction, the adjudication and appeal of the case will be handled in accordance with the University's Tenure/Tenure Track Faculty Suspension and Termination Policy.

For faculty members who are not tenured or tenure track, the Disciplinary Authority will be the external Disciplinary Authority and the faculty member will be subject to the adjudication and appeal policies outlined below, regardless of the sanctions that may be imposed.

#### **E. Disciplinary Authority Hearing**

Hearings will be conducted either in-person or virtually with technology that enables the Disciplinary Authority and parties to simultaneously see and hear all participants.

The hearing is an opportunity for the parties to address the Disciplinary Authority. The parties may address any information in the investigative report and supplemental statement submitted in response to the investigative report. The University will make all evidence directly related to the allegations, as shared in the evidence review, available to the parties at the hearing, including for the purposes of cross-examination.

The Disciplinary Authority has the discretion to determine the format for the hearing and its deliberations. Typically, the Complainant and Respondent will have an opportunity to provide an opening statement to the Disciplinary Authority. Each party will then have an opportunity to address the Disciplinary Authority and respond to questions by the Disciplinary Authority, or as described below, the other party's Advisor. The Disciplinary Authority will also hear from relevant witnesses, including the Investigator(s). Each party will have the opportunity to question the other party, the witnesses, and the Investigator(s) through their Advisor of choice or hearing Advisor provided by the University directly, orally, and in real time. If a party does not have an Advisor present at the live hearing, the University will provide an Advisor, free of charge, who may be, but is not required to be, an attorney, for questioning on behalf of that party.

Only relevant questions may be asked of a party or witness. Before a Complainant, Respondent, or witness responds to a question, the Disciplinary Authority will first determine whether the question is relevant and briefly explain any decision to exclude a question as not relevant as defined above. If a party or witness does not submit to questioning by the other party's Advisors at the hearing, the Disciplinary Authority may not rely on any statement made by that party or witness in reaching a determination regarding responsibility. The Disciplinary Authority may not draw any inference from the decision of a party or witness to not participate at the hearing.

After all parties and witnesses have been heard, the parties will have an opportunity to provide a closing statement. The Advisor may not provide the opening or closing statement and may not provide answers or responses on behalf of a party. The Advisor's role during the hearing is to conduct questioning of the other party and any witnesses. A party may never conduct questioning of the other party themselves.

An audio recording will be made of the hearing. The recording will be maintained by the Office of Institutional Equity for at least ten years from the date of the hearing. A written transcript of the hearing will not be prepared. Requests to listen to the audio recording of a hearing should be made to the Assistant Director of Institutional Equity and Title IX Coordinator.

#### **F. Determination of Violation and Possible Sanctions**

At the conclusion of the hearing, the Disciplinary Authority will determine whether there is sufficient information, by a Preponderance of the Evidence, to support a finding of responsibility for a violation(s) of the Policy. A Respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the resolution process. If a Respondent is found responsible, the Disciplinary Authority will determine the appropriate sanction(s) and may be given access to the Respondent's discipline/criminal history for consideration.

The Policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Disciplinary Authority has great latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the Complainant and surrounding community, and accountability for the Respondent. Sanctions should support the University's educational mission and federal obligations.

In determining the appropriate sanction(s) and/or remedies, the Disciplinary Authority will consider a number of factors, including:

- the nature of the conduct at issue;
- the impact of the conduct on the Complainant;
- the impact or implications of the conduct on the University community;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions, if such information is available and known;
- any expression of remorse or acceptance of responsibility by the Respondent;
- maintenance of a safe and respectful environment conducive to learning;
- protection of the University community;
- the necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence and remedy its effects on the Complainant or other University community members; and,
- any mitigating, aggravating or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Disciplinary Authority may also consider restorative outcomes that, taking into account the safety of the University community as a whole, allow a Respondent to develop insight about their responsibility for the behavior, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior. Sanctions may be issued individually, or a combination of sanctions may be imposed. Sanctions will typically be imposed immediately, although the Assistant Director of Institutional Equity and Title IX Coordinator in consultation with the Dean of Students (if a student) or Executive Director of Human Resources and Institutional Equity (if an employee) has the discretion to stay imposition of some or all sanctions pending an Appeal.

#### **(1) Sanctions and Corrective Action for Student Respondents**

Sanctions and corrective actions for student Respondents include, but are not limited to, censure, disciplinary probation, restitution, suspension, expulsion, , educational program attendance, educational project, professional assessment, , transcript notation and/or notification to other institutions, and withholding or delaying the conferral of a degree.

Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity may be subject to sanctions both in connection with their employment and in connection with their student status, as appropriate under applicable processes. If a student is employed through a financial aid package, such as work study, any modification to the employment will not result in a decrease in student aid funds.

#### **(2) Sanctions and Corrective Action for Employee Respondents**

Sanctions and corrective actions for employee Respondents include, but are not limited to, verbal or written warning, disciplinary probation, suspension, termination of employment, training, guidance, adjustment of supervisory or evaluative responsibilities, other reasonable sanctions and corrective actions, and measures to protect health and safety. Sanctions of a faculty member may be subject to procedures outlined in the Faculty Manual. Those Procedures will be implemented in a manner consistent with the requirements of Title IX and the Clery Act.

### **G. Written Notice of Outcome**

The Disciplinary Authority will prepare a written decision and rationale, including the finding of responsibility or non-responsibility, and, if applicable, the sanction and rationale. The Complainant and Respondent will receive simultaneous written notification of the outcome (typically via e-mail to each party's University e-mail address) from the Assistant Director of Institutional Equity and Title IX Coordinator or their designee, including:

1. Identification of the allegations potentially constituting Prohibited Conduct;
2. 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 parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the Policy to the facts;
5. A statement of, and rationale for, the result as to each alleged Policy violation, including a determination regarding responsibility, any disciplinary sanctions, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant; and
6. The procedures and permissible bases for the Complainant and Respondent to appeal.

The Assistant Director of Institutional Equity and Title IX Coordinator will also document individual remedies provided to the Complainant and other steps the University took or will take to eliminate a hostile environment, if one is found to exist. That documentation may be provided to the Complainant and/or Respondent as appropriate.

## H. Appeals

### (1) Grounds for Appeal

A Complainant or Respondent may appeal the decision of the Disciplinary Authority on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could materially affect the outcome;
- The sanction(s) was grossly disproportionate to the Prohibited Conduct for which the Respondent was found responsible; or
- The Assistant Director of Institutional Equity and Title IX Coordinator, Investigators, and/or Disciplinary Authority 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.

The Complainant or Respondent may appeal the outcome by submitting a written appeal within five business days of the date of the Notice of Outcome to the Assistant Director of Institutional Equity and Title IX Coordinator in person or via e-mail.

If the Disciplinary Authority determines termination or suspension could be an appropriate sanction if the tenured and tenure track faculty Respondent is found responsible, the adjudication and appeal of the case will be handled in accordance with the University's Tenure/Tenure Track Faculty Suspension and Termination Policy, which complies with the most current version of the AAUP guidelines and Title IX Final Rule regulations.

When a party appeals either the determination of the Disciplinary Authority or the dismissal of a Formal Complaint, the Assistant Director of Institutional Equity and Title IX Coordinator will do the following:

- a. Notify the other party in writing when an appeal is filed;
- b. Ensure that the External Reviewer for the appeal is not the Disciplinary Authority and ensure that this individual is trained appropriately;
- c. Allow both parties the opportunity to submit a written statement in regards to the appeal; and
- d. Issue the External Reviewer's written decision regarding the appeal and rationale to both parties.

### (2) External Reviewer

The appeal for students and all employees that are not subject to the University's Tenure/Tenure Track Faculty Suspension and Termination Policy will be conducted by an External Reviewer. The External Reviewer will be a neutral party outside of the University, most often an attorney with legal experience, training and knowledge regarding sexual and gender-based harassment and interpersonal violence. The External Reviewer will be free from bias or conflict of interest for or against Complainants and Respondents and receive annual training on: (a) the definition of Prohibited Conduct, including Sexual Harassment; (b) the scope of the University's education program or activity; (c) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; (e) the presumption of "not responsible" until any appropriate process concludes; and, (f) how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.

The University will maintain a pool of External Reviewers selected through an inclusive committee process under the direction of the Assistant Director of Institutional Equity and Title IX Coordinator. The External Reviewers will serve for a limited term, unless reappointed by the selection committee.

Within ten (10) working days of receipt of the appeal, the External Reviewer will render a written decision to the Assistant Director of Institutional Equity and Title IX Coordinator, who will simultaneously share the written decision with the parties and their Advisors.

The options available to the External Reviewer are to: (a) affirm the findings, disciplinary decision and/or the sanction(s); (2) modify the findings, disciplinary decision and/or sanction(s); or (3) in the event of significant new evidence, order a new hearing based on the totality of the evidence.

The decision by the External Reviewer is final. No further appeals are available.

### Document History

**Policy Revision Date:** August 1, 2022

**Policy Origination Date:** August 1, 2019