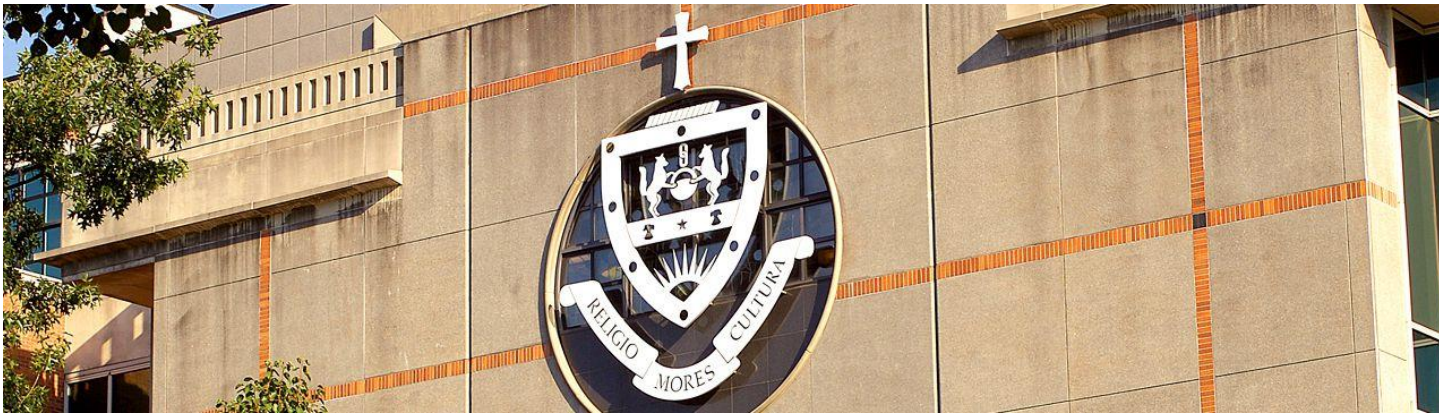

The University of Scranton

SEXUAL HARASSMENT and SEXUAL MISCONDUCT POLICY

October 1, 2022

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The University of Scranton
SEXUAL HARASSMENT and SEXUAL MISCONDUCT POLICY

Office of Equity and Diversity
Responsible Office: Office of Equity and Diversity
Effective Date: August 14, 2020
Amended: November 17, 2020
Approved by UGC: November 10, 2020
Approved by Cabinet: November 17, 2020
Reviewed by OED: August 3, 2021
Revision proposed: January 10, 2022
Approved by UGC: April 21, 2022
Approved by Cabinet: April 26, 2022
Approved by President: August 13, 2020.
Amendments approved by the President: November 17, 2020; April 26, 2022, October 1, 2022

This Policy will be reviewed prior to the start of each academic year.

I. PURPOSE AND SCOPE OF POLICY

A. POLICY STATEMENT

As a Catholic, Jesuit, institution of higher learning, The University of Scranton is committed to providing an educational, residential, and working environment that is free from gender and sex-based discrimination. Members of The University of Scranton (the "University") community, guests, and visitors have the right to be free from all forms of gender and sex-based discrimination; examples of which include sexual and gender harassment, sexual assault, sexual exploitation, intimate partner violence, and stalking.

All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University does not tolerate sexual harassment and sexual misconduct. When a report of sexual harassment or sexual misconduct is brought to an appropriate University official's attention, the University will take prompt and effective steps reasonably calculated to resolve the allegations and to implement supportive measures. Where appropriate, the University will also take prompt and effective steps to stop sexual harassment or misconduct, eliminate a hostile environment, and prevent its reoccurrence. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. It is also intended to define our community expectations and to establish a mechanism for determining when those expectations have been violated.

B. REASONS FOR UPDATED POLICY

In May 2020, the Department of Education released regulations mandating that institutions of higher education implement certain requirements by August 14, 2020. The Third Circuit Court of Appeals also established precedent for private universities and colleges in Doe v. University of the Sciences. The requirements include, but are not limited to: live hearings, cross examinations, written complaints, and other procedural obligations. Reports received alleging possible violation of this policy must comply with these legal obligations. While the University must comply with these regulations, the University also attempts, wherever possible, to conduct such processes in accordance with our Jesuit and Catholic identity, and to provide all members of our community access to support and services.

This policy applies to conduct that takes place while on University property, at University-sponsored events and activities, and off-campus programs, including but not limited to, study abroad programs, internships, student teaching, athletic events, and business travel. This policy also applies to off-campus conduct that violates the policy and has the effect of interfering with or limiting one's ability to participate in, or benefit from, a work-related or educational program or activity. Some conduct may fall under "Title IX" definitions and jurisdiction, other conduct may proceed under the "University" definitions and jurisdiction, and some may even qualify under both. While the conduct may apply under different legal requirements, the process for addressing allegations of sexual (including gender) harassment or sexual misconduct (except as it relates to mandatory dismissals which only apply to Title IX definitions and jurisdiction) is the same.

C. REASON FOR POLICY

This policy provides the University community with a clearly articulated set of behavioral standards, common definitions, and prohibited conduct. The policy is intended to guide students and employees who have experienced or been affected by sexual harassment or sexual misconduct, whether as a Complainant, a Respondent, a witness, or another participant in the process.

We recognize that an individual may choose to self-identify as a victim or a survivor. For consistency in the policy, the University will use the term Complainant and Respondent. **When used in this policy, a Complainant refers to the individual(s) who may have experienced sexual harassment or sexual misconduct, regardless of whether that individual makes a report or seeks formal disciplinary action. A Respondent refers to the individual(s) who is accused of sexual harassment or sexual misconduct. Parties used collectively means both the Complainant and Respondent. A third party refers to any other participant in the process, including a witness to the incident(s) and/or an individual who makes a report on behalf of someone else.**

The purpose of this policy is to:

- Implement the legal requirements adopted by the Department of Education in 34 C.F.R. 106 et seq. in 2020.

- Comply with legal precedent, Doe v. University of the Sciences, No. 19-2966 (May 29, 2020).

- Define sexual harassment and the forms of sexual misconduct that violate the standards of our community.

- Identify resources and support for all members of the University community (students and employees).

- Identify the Title IX Coordinator and the scope of the role.

- Provide information as to where a student or employee can obtain supportive measures or access resources in a confidential manner.

- Provide information as to how a student or employee can make a report with the University and/or with the police, or file a complaint with the Title IX Coordinator.

- Provide information as to how a report against a student or an employee will be investigated, evaluated, and adjudicated.

D. ENTITIES AFFECTED BY THIS POLICY

This policy applies to all members of the University community, including students, employees, and third parties (including independent contractors, vendors, visitors and guests). When used in this policy, "employee" generally refers to both staff and faculty members. Unless specifically noted, references to employee(s) do not include student employees.

All students and employees of the University are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. As such, this policy applies to conduct on campus or in the context of an education or work program, or activity. This includes off-campus conduct that has continuing adverse effects on campus, in the context of an education program or activity, or where the conduct has the potential to adversely affect any member of the University of Scranton community. Education programs or activities include activities that take place during study abroad, internship programs, and events for school clubs or organizations that occur off-campus, including athletic events.

The specific process that a report follows to conclusion will be dependent on a number of factors, including but not limited to, the regulations from the Department of Education, the Complainant's wishes, and the information available to the Title IX Coordinator.

E. WEBSITE ADDRESS FOR THIS POLICY

http://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf

F. COORDINATION WITH DISCRIMINATORY HARASSMENT POLICIES FOR OTHER FORMS OF UNLAWFUL DISCRIMINATION

The University recognizes that discrimination and harassment related to an individual's sex or gender can occur in conjunction with conduct related to an individual's race, color, ethnicity, national origin, ancestry, pregnancy, religion, age, gender identity and expression, sexual orientation, disability, genetic information, veterans status, or other protected characteristics defined in the University's Notice of Non-Discrimination found below. Targeting individuals on the basis of these characteristics is also a violation of University Policy. Under these circumstances, the University may coordinate the investigation and resolution efforts under the procedures outlined in this policy to address discriminatory or harassing conduct related to the targeted individual's sex and/or gender together with the conduct related to the targeted other protected characteristics.

G. COORDINATION WITH OTHER DISCIPLINARY PROCESSES FOR ALLEGED ADDITIONAL VIOLATIONS

When a complaint is made or charges are filed against a University student that alleges violations of the Student Code of Conduct in addition to an alleged violation of the Sexual Harassment and Sexual Misconduct policy, and those alleged violations stem from the same event, course of conduct or related circumstances, all alleged violations will be processed, investigated and adjudicated under the procedures outlined in this policy, rather than through the student conduct process outlined in the Student Code of Conduct, so long as doing so does not have the purpose of interfering with any rights and privileges required by law.

If, during the course of a formal or informal process, additional information regarding the violation of other University Policies is provided to the Title IX Coordinator or Designee, a determination will be made in consultation with the appropriate authority as to whether the investigation into that violation should remain with the Office of Equity and Diversity, or be remanded to that authority. If the additional violation is appropriately handled through the Office of Equity and Diversity's investigation, notice will be provided to the appropriate parties. If the additional violation is to be handled by the authority for that policy, the Office of Equity and Diversity will provide the relevant information to that authority. While there may be an informal consultation with that authority to determine the correct course of action, the Title IX Coordinator may withhold the information obtained through investigation until it is determined to not interfere with their process, at their discretion.

When a matter is referred to another process, the Title IX Coordinator or designee will inform that authority when it is appropriate to apply the standard of amnesty from the Sexual Harassment and Sexual Misconduct policy, rather than their own.

H. CONTACTS

Title IX Coordinator
Elizabeth Garcia
Executive Director and Title IX Coordinator
Office of Equity and Diversity

Institute of Molecular Biology and Medicine, Suite 315
Phone: (570) 941-6645 E-mail: elizabeth.garcia2@scranton.edu
Website: www.scranton.edu/diversity

The Title IX Coordinator oversees the University's central review, investigation, and resolution of reports of sexual harassment and sexual misconduct under the University's grievance processes and coordinates the University's compliance with Title IX.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment and sexual misconduct.
- Knowledgeable and trained in state and federal laws that apply to matters of sexual harassment and sexual misconduct, as well as University policy and procedure.
- Available to advise any individual who believes that they have been sexually harassed about what support, resources and courses of action are available at the University.
- Available to advise any individual against whom a complaint may have been made about the process and to provide support and resources.
- Available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence, and
- Responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures.

Deputy Title IX Coordinator - Employees
Patricia Tetreault
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St. Thomas Hall, Suite 100
Phone: (570)941-7767 E-mail: patricia.tetreault@scranton.edu
Website: www.scranton.edu/hr

Deputy Title IX Coordinator – Students and Employees
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Office of Equity and Diversity
Institute of Molecular Biology and Medicine, Suite 315
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Website: www.scranton.edu/diversity

II. NOTICE OF NON-DISCRIMINATION

The University is committed to providing an educational, residential, and working environment that is free from harassment and discrimination. Members of the University

community, applicants for employment or admissions, guests and visitors have the right to be free from harassment or discrimination based on race, color, national origin, ancestry, gender, sex, pregnancy, disability, religion, age, veteran status, gender identity or expression, sexual orientation, genetic information, or any status protected by applicable law.

The University reaffirms its long-standing philosophy and principles of non-discrimination, non-harassment, and non-retaliation for protected characteristics for all members of the University community. This policy addresses discrimination on the basis of sex. Please review the University's Non-Discrimination and Anti-Harassment Policy for all other forms of unlawful discrimination and harassment.

The University does not discriminate on the basis of sex in its educational, extracurricular, athletic or other programs, or in the context of employment. Sexual harassment is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972. Title IX requires that

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the Pennsylvania Human Relations Act, and other applicable statutes.

This policy prohibits sexual harassment and sexual misconduct against all University community members, visitors, and guests regardless of gender, gender identity, gender expression or sexual orientation. This policy also prohibits gender-based harassment that does not involve conduct of a sexual nature.

Links to relevant Federal laws are as follows:

Title IX	https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal
Clery Act	https://ope.ed.gov/campussafety/#/
FERPA	http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html
VAWA	https://www.ed.gov/news/press-releases/us-department-education-announces-final-rule-help-colleges-keep-campuses-safe
Title VII	https://employment.findlaw.com/employment-discrimination/title-vii-of-the-civil-rights-act-of-1964-equal-employment.html
Title VI	https://www.justice.gov/crt/fcs/TitleVI

PAHRA https://www.phrc.pa.gov/LegalResources/Policy-and-Law/Pages/default.aspx

III. PRIVACY AND CONFIDENTIALITY

The University encourages the reporting of all incidents of sexual harassment and sexual misconduct, and is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under the Sexual Harassment and Sexual Misconduct Policy. The University also is committed to providing assistance to help individuals make informed choices. With respect to any report under this Policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal laws, while balancing the need to gather information to assess the report and to take legally-allowable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under the Sexual Harassment and Sexual Misconduct Policy:

Privacy: Privacy means that information will be shared only with University employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University's response to reports of prohibited conduct receive specific training about sharing and safeguarding private information in accordance with state and federal law. Further, the University will maintain as private any accommodations or supportive measures provided to the extent that maintaining such privacy would not impair the University's ability to provide the accommodations or supportive measures. For example, the existence of an academic accommodation must be revealed to a faculty member who must implement the accommodation.

Confidentiality: Confidentiality exists in the context of laws that protect certain relationships, including with legal, medical, and clinical care providers (and those who provide administrative services related to the provision of legal, medical and clinical work), mental health providers, and ordained clergy, all of whom may engage in confidential communications under Pennsylvania law. The University has designated individuals who have the ability to have privileged communications as "Confidential Employees," defined at V.C of this policy. When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) will not reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information, or when a student requests assistance from the Confidential Employee in making a report. For example, information may be disclosed when an individual gives written consent for its disclosure or there is a concern that the individual will likely cause serious physical harm to them self or to others or, in the case of suspected abuse or neglect of a minor under the age of 18, where the law obligates the otherwise Confidential Employee to report to the proper authorities. However, when that information is shared with a faculty member who may have access to those legal protections as a result of their professional background, but who is employed as a faculty member, that faculty member cannot guarantee confidentiality, and should make a report to the Title IX Coordinator.

IV. REPORTING INFORMATION

The University has an interest in supporting those who have experienced sexual harassment, sexual assault, sexual exploitation, intimate partner violence and stalking, or other sexual misconduct, and encourages all community members to report any incident of prohibited conduct. The University cannot take appropriate action unless the University's Title IX Coordinator or a University Official is officially informed of the allegation.

All participants in the process will be treated fairly and respectfully. The University supports individuals reporting sexual harassment and sexual misconduct, and the University realizes that not every individual chooses to, or is prepared to, make a formal complaint for resolution. Each individual has a say if and how to report, and that decision may be influenced by a variety of factors. Even after making a report, a Complainant is not required to participate in a specific course of action. It is an individual's decision to participate in a criminal process, the University process, both, or neither.

A. EMERGENCY SERVICES AND IMMEDIATE CARE

The first priority for any individual is personal safety and well-being. The University encourages all individuals to seek immediate assistance from University Police (570-941-7777), the City of Scranton Police Department at 911 and/or a medical facility. This is the best way to address immediate safety concerns while allowing for the preservation of evidence and an immediate investigative response. The University will assist in these situations by contacting emergency medical services for transportation to the hospital, coordinating with local law enforcement, and providing information about the University's resources and grievance processes.

If you have experienced sexual misconduct, including sexual assault:

- **Preserve all evidence of the sexual assault or other form of sexual misconduct.**
  - Do not bathe, change or dispose of clothing, use the restroom, wash hands, brush teeth, eat or smoke.
  - If you are still at the location of the incident, do not clean anything.
  - Write down all the details you can recall about the incident and the perpetrator including any information related to previous concerning behavior or history.

- **In cases of sexual assault, seek medical care as soon as possible.** Even if you do not have any visible physical injuries, you may be at risk of acquiring a sexually transmitted infection (women may also be at risk for pregnancy).
  - Contact information for local hospitals can be found in the Medical Support Services section of this policy.
  - Ask the health care professional to conduct a Sexual Assault Forensic Exam (SAFE).
  - If you suspect you were drugged, request collection of a urine or blood sample.

B. REPORT TO THE POLICE

Sexual assault and other forms of sexual misconduct are not only University policy violations but may also be crimes. Individuals are encouraged, but not required, to report these crimes to the police. If an individual chooses, University officials will assist in contacting the police.

The University of Scranton Police Department – (570) 941-7777 for an emergency or (570) 941-7888 for a non-emergency

City of Scranton Police - (570) 348-4134 or 911 for an emergency

C. REPORT TO THE UNIVERSITY

In an effort to support individuals as well as the campus community, the University will initiate a response process upon receiving actual notice of sexual harassment or sexual misconduct. Actual notice means notice of sexual harassment or sexual misconduct, or allegations of sexual harassment or sexual misconduct to the University's Title IX Coordinator, Deputy Title IX Coordinator, or any official of the University who has authority to institute corrective measures on behalf of the University, who include:

President	Vice President of Student Life	Dean of Students
Provost	Academic Deans	Chief of Police
Vice President of Human Resources	Human Resource Manager	Director of Athletics
Title IX Coordinator/Deputy TIX Coordinators	Director of Student Conduct and Assessment	Assistant Director of Student Conduct

Reports received by the Title IX Coordinator from Responsible Reporters, as defined in paragraph D, will also cause the University to initiate a response process. Individuals seeking confidentiality should contact a confidential resources as noted in this policy. Individuals are encouraged to directly report information regarding any incident of sexual harassment or sexual misconduct to any of the following reporting options either in person, by mail, by electronic mail, or by incident reporting form (including during non-business hours) at https://scranton.i-sight.com/external-capture

Title IX Coordinator
Elizabeth Garcia
Executive Director and Title IX Coordinator
Office of Equity and Diversity
Institute of Molecular Biology and Medicine, Suite 315
Phone: (570) 941-6645 E-mail: Elizabeth.garcia2@scranton.edu
Website: www.scranton.edu/diversity

Deputy Title IX Coordinator – Employees
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Deputy Title IX Coordinator – Students and Employees
Diana Collins
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Institute of Molecular Biology and Medicine, Suite 315
Phone: (570) 941-6645 E-mail: Diana Collins@scranton.edu
Website: www.scranton.edu/diversity

The University of Scranton Police Department
Campus Parking Pavilion
Phone: 570-941-7777 (emergency) or 570-941-7888 (non-emergency)
Website: www.scranton.edu/police

Online Reporting through the Office of Equity and Diversity

The Office of Equity and Diversity reporting program allows students, employees or other third parties to file reports on-line. *Website:* https://scranton.i-sight.com/external-capture Emergency or crisis reports should be made to law enforcement as this website is NOT monitored 24 hours a day.

Anyone can make an anonymous report through the Office of Equity and Diversity's online reporting program at any time. Depending on the nature of the information provided, the University's ability to respond may be limited. For example, if the Complainant is not identified in the report, it may not be possible for the Title IX Coordinator to contact the Complainant to offer supportive measures and to explain the process for filing a formal complaint.

Online Reporting through the University Police Department

The University of Scranton Police Silent Witness Program
Website: www.scranton.edu/silentwitness The Silent Witness Program should not be used for emergency or crisis situations needing an immediate law enforcement or medical emergency response since the silent witness program is not monitored 24 hours a day.

D. RESPONSIBLE REPORTER STATEMENT

Every employee (except those specifically identified as a "confidential" resource) who receives information of sexual harassment or sexual misconduct involving a student and/or employee as a complainant, respondent or witness, is required to share all relevant details (obtained directly or indirectly) with the Title IX Coordinator. Resident Assistants and Graduate Teaching Assistants are also responsible reporters.

While students are encouraged to directly report information to the designated reporting options listed above, the University recognizes that a student may choose to share information regarding sexual harassment and sexual misconduct with other employees of the

University (e.g. a Resident Assistant, faculty member, or coach). Reports are shared with the Title IX Coordinator for consistent application of the Sexual Harassment and Sexual Misconduct Policy to all individuals and to allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence and remedy its effects.

E. TIME FRAME FOR REPORTING

Individuals are encouraged to promptly report sexual harassment and sexual misconduct in order to maximize the University's ability to respond promptly and effectively. The University, however, does not limit the timeframe for reporting. If the Respondent is not a student or employee or no longer a student or employee, the University will meet its Title IX obligation by providing reasonably available supportive measures or resources for a Complainant, assisting the Complainant in identifying external reporting options, and taking reasonably-available steps to end the harassment, prevent its recurrence, and address its effects. Those steps may be limited if the Respondent is no longer affiliated with the University, or based on other information limiting the University's ability to respond.

1. Community Advisories

The Clery Act requires institutions to issue a timely warning (i.e., a Community Advisory) when certain crimes, occurring within the University's Clery-defined geography, pose a serious or on-going threat to the campus community. Decisions to disseminate a timely warning are made on a case-by-case basis in light of all available information. The purpose of the warning is to aid in the prevention of similar crimes by alerting the community about the incident and to provide information that people can use to keep themselves safe. Timely warning notices are typically issued for the following crime classifications: major incidents of arson, aggravated assault, murder/ non-negligent manslaughter, robbery, and sex offenses. Complainant's names and identities are never disclosed in timely warning notifications.

2. Coordination with Law Enforcement

To the extent permitted by applicable law, the University will cooperate with outside law enforcement investigations. However, outside law enforcement agencies do not investigate violations of University policy and will only respond to allegations of criminal behavior. Where the alleged conduct may also be a crime, the University encourages reporting to both the University *and* to an outside law enforcement agency. It is an individual's decision to participate in a criminal process, a University process, both, or neither.

Because the goals and objectives of the University's Sexual Harassment and Misconduct Policy differ from those of the civil and criminal justice systems, under circumstances which give rise both to violations of the Sexual Harassment and Misconduct Policy and to violations of local, state or federal law, proceedings under this policy generally move forward without regard to pending civil or criminal proceedings. Proceedings under the University's Sexual Harassment and Misconduct Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. On-campus

resolution does not preclude or limit a student or employee's access to the state and federal justice systems.

If an individual reports sexual harassment or sexual misconduct committed by an individual who is not a member of the University community, the Complainant can speak with the Title IX Coordinator or designee to discuss options such as contacting outside law enforcement authorities and/or removing the individual(s) from campus. If an individual accused of violating this policy is a guest, the host may be held accountable for any violations of the Student Code of Conduct related to the guest's behavior.

F. AMNESTY FOR CONDUCT VIOLATIONS FOR COMPLAINANTS AND WITNESSES

The University will generally not seek to hold any student who comes forward in good faith to report suspected sexual harassment or sexual misconduct accountable for their own conduct at or near the time of the event which may have constituted a violation of the drugs and alcohol provision of the Student Code of Conduct, provided that any such violations did not and do not place the health and safety of any individual at risk. This means, for example, that students reporting sexual harassment or sexual misconduct will generally not face disciplinary action due to the personal ingestion of alcohol or other drugs. The University may choose not to pursue other issues on a case-by-case basis.

G. BYSTANDERS

The University encourages all community members to take reasonable and prudent actions to prevent or stop sexual harassment, sexual assault, sexual exploitation, intimate partner violence, stalking, and other forms of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, reporting the incident to campus officials, or seeking assistance from an individual in a position of authority. Community members who choose to be proactive will be supported by the University and protected from retaliation.

The University provides ongoing training programs and opportunities for students and employees to learn more about bystander intervention.

H. STATEMENT AGAINST RETALIATION

It is a violation of University policy to retaliate in any way against a student or employee because they raised allegations of sexual harassment or sexual misconduct or participated in good faith in a resolution process. The University recognizes that retaliation can take many forms and may be committed by or against an individual or a group. The University will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate.

An individual reporting sexual harassment, sexual assault, sexual exploitation, intimate partner violence, stalking or other form of sexual misconduct defined in the policy is entitled to protection from any form of retaliation following a good faith report, even if the report is not later substantiated.

I. FALSE REPORTS

The University takes the validity of information very seriously as a charge of sexual harassment, sexual assault, sexual exploitation, intimate partner violence, stalking or other sexual misconduct as defined in this policy may have severe consequences. A good faith report that results in a finding of "not responsible" is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant is found to have fabricated allegations intentionally or with malicious intent, the Complainant will be subject to discipline in the employment context (as an employee) or may be found in violation of the Dishonesty provision of the Student Code of Conduct (as a student), or other applicable provisions. The Complainant's behavior may also violate state criminal statutes and civil defamation laws. Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation may be subject to disciplinary action pursuant to the Dishonesty provision of the Student Code of Conduct (student) or in the employment context (employee).

V. RESOURCES AND SUPPORT SERVICES

Various resources within the University and local community are available for individuals who have experienced sexual harassment or sexual misconduct of any kind or are involved in a grievance process. Regardless of which resource(s) an individual chooses to access, the situation will be handled with sensitivity and care to protect the privacy of the individual(s) involved.

A. MEDICAL SUPPORT SERVICE

Medical services are encouraged in cases of sexual assault. Health care professionals are able to complete an appropriate exam and collection of evidence.

Note: Medical Service providers will likely bill an insurance provider, which in turn may disclose the visit to the holder of the insurance (parent/spouse/domestic partner, etc.), unless a person is proactive and makes arrangements with the Medical Service provider and/or insurance carrier to prevent such disclosure at the time of the visit.

Geisinger Community Medical Center
1800 Mulberry St.
Scranton, PA 18510
(570) 703-8000

The Regional Hospital of Scranton
746 Jefferson Ave.
Scranton, PA 18510
(570) 770-3000

Moses Taylor Hospital
700 Quincy Ave.

Scranton, PA 18510
(570) 770-5000

If an individual visits a hospital for an exam, both the police and Women's Resource Center of Lackawanna County (WRC) may be notified by the hospital. The individual may choose whether or not to speak to the police and/or the WRC. If the individual chooses to speak to the police, they still have the option of whether or not to file charges against the individual accused. The WRC Advocate will be able to provide support and information through the process.

The University also provides confidential support and assistance through Student Health Services.

B. CONFIDENTIAL RESOURCES AND SUPPORT SERVICES

An individual who desires confidentiality needs to make contact with one of the confidential resources/support services listed below. Information shared with a confidential resource does not have to be reported to the University Title IX Coordinator or law enforcement for investigation unless the individual disclosing to the confidential resource later chooses to engage those resources or a legal exception exists.

The University of Scranton Counseling Center (570-941-7620) provides confidential counseling services to University students Monday through Friday from 8:30am-4:30pm during the academic year. The Counseling Center is located on the 6th floor of O'Hara Hall, at the corner of Linden and Jefferson. Upon request, the Counseling Center will provide counseling as well as referrals to agencies off-campus.

Student Health Services (570-941-7667) provides confidential medical support and assistance to University students from 8:30 a.m.-4:30 p.m. Monday through Friday during the academic year. Student Health Services is located at the corner of North Webster Avenue and Mulberry Street in the Roche Wellness Center.

Women's Resource Center of Lackawanna County (570-346-4671) is a confidential, community-based agency serving those who have experienced sexual assault or other sexual misconduct. A counselor/advocate can be reached 24 hours a day.

National Sexual Assault Hotline (800-656-HOPE) is a free, confidential national resource available 24 hours a day by calling, or online at www.rainn.org

The Employee Assistance Program (EAP), *(*1-800-EAP-CALL (1-800-327-2255)) NextGen offers professional counselor services to employees, including confidential counseling in-person or over the phone for a variety of stressful issues including sexual harassment and misconduct. Contact with NextGen can also be made at www.nexgeneap.com. Member and group numbers may be found by visiting www.scranton.edu/hr, click on Benefits > Additional Benefits > Employee Assistance Program.

C. ADDITIONAL RESOURCES AND SUPPORT SERVICES (Private but not Confidential)

Regardless of which resource(s) an individual chooses to access, the situation will be handled with sensitivity and care to protect the privacy of the individual(s) involved.

Campus Ministries (570-941-7419) is located in the DeNaples Center, Suite 200 and offers pastoral support for students. Students may stop by the office and ask to speak to a priest or campus minister or schedule an appointment. Although Campus Ministries staff are not a confidential resource, ordained priests *acting in their pastoral capacity* are confidential and do not report to the Title IX Coordinator.

The Jane Kopas Women's Center (570-941-6194) is located in the DeNaples Center, Suite 205. The Center is a comfortable gathering place for students of all genders that also provides educational programming, leadership development, resources, and referrals.

www.scranton.edu/CARE is a website maintained by the University which provides information and resources for those in our campus community who have experienced or witnessed sexual harassment or sexual misconduct.

The Title IX Coordinator (570-941-6645) is located in the Office of Equity and Diversity in the Molecular Biology Institute, Room 315, who provides programs, resources, and support. The Title IX Coordinator, Elizabeth Garcia, and Deputy Title IX Coordinator, Christine Black, are available to discuss any questions regarding the Sexual Harassment and Sexual Misconduct Policy, to assist individuals in accessing resources and supportive services, and to facilitate investigations and resolution of reports of conduct that may violate the Sexual Harassment and Sexual Misconduct Policy.

University Police (570-941-7777) are available to coordinate with various resources to provide for the safety and well-being of the individual who experienced sexual assault or another form of sexual misconduct. The services include organizing transportation for a student, faculty, or staff member to a hospital for medical care, assisting in obtaining a Protection from Abuse Order from the local court, and/or coordinating with appropriate legal authorities including the Lackawanna County District Attorney's Office and the Victim/ Witness Unit.

The Dean of Students (570-941-7680), Lauren Rivera is located in the DeNaples Student Center, Suite 201. The Dean of Students (or designee) meets with students to offer support and resource information, safeguard the larger University community, discuss formal reporting options, and review the Title IX investigation process. The following is a list of support provided by the Dean of Students:

- Assess Student Welfare
- Triage the need for and provide information about support services and/or resources (either on- or off-campus)
- Provide information about and assistance in obtaining supportive measures, including, but not limited to, Administrative Orders for No Contact directives and academic support
- Discuss formal reporting options

VI. PROHIBITED CONDUCT AND DEFINITIONS

A. TITLE IX SEXUAL HARASSMENT OFFENSES AS PER FEDERAL REGULATIONS INCLUDE[1]:

1. **Title IX Quid Pro Quo Sexual Harassment**
2. **Title IX Sexual Harassment**
3. **Title IX Sexual Assault**
4. **Title IX Sexual Exploitation**
5. **Title IX Dating Violence or Domestic Violence**
6. **Title IX Stalking**

1. QUID PRO QUO SEXUAL HARASSMENT

Quid Pro Quo Sexual harassment is defined as any employee of the University that conditions the provision of an aid, benefit, or service of the University on a complainant's participation in unwelcome sexual conduct. Unwelcome sexual conduct includes, but is not limited to: any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise.

2. TITLE IX SEXUAL HARASSMENT

Title IX Sexual Harassment is defined as unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

3. TITLE IX SEXUAL ASSAULT

Title IX Sexual Assault is defined as any attempted or actual sexual act directed against another person, without consent of the complainant, including instances where the victim is incapable of giving consent. Sexual assault is the penetration, no matter how slight, of the vagina or anus, with a body part (e.g., finger, hand or penis), or object, or oral penetration by a sex organ of another person, without consent of the complainant. Title IX sexual assault also includes sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, or sexual intercourse with a person who is under the statutory age of consent.

4. TITLE IX SEXUAL EXPLOITATION

Title IX Sexual Exploitation is defined as the touching of the private body parts (breasts, buttocks, groin, genitals, or other intimate part of a body) of another person for the purpose of sexual gratification, without consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

[1] For pertinent state statutes on the offenses covered under this policy, please see Appendix A.

5. TITLE IX DATING VIOLENCE

Title IX Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse, or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

6. TITLE IX DOMESTIC VIOLENCE

Title IX domestic violence is defined as violence, physical abuse, or a pattern of any other coercive behavior committed, enabled or solicited to gain or maintain power and control, including verbal, psychological, economic or technological abuse[2],:

- By a current or former spouse or intimate partner of the complainant
- By a person with whom the complainant shares a child
- 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 the domestic violence laws of the jurisdiction in which the crime of violence occurred
- By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

To categorize an incident as domestic violence, the relationship between the respondent and the complainant must be more than just two people living together. The people cohabitating must be current or former spouses or have an intimate relationship.

7. TITLE IX STALKING

Stalking is defined as engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to:

- Fear for that person's safety or the safety of others; or
- Suffer substantial emotional distress. For the purpose of this definition:
    - Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by an action, method, device, or means, follows, monitors, observes,

[2] Economic abuse means "behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use or maintain economic resources to which they are entitled, including using coercion, fraud or manipulation to (A) restrict a person's access to money, assets, credit, or financial information; (B) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or (C) exert undue influence over a person's financial and economic behavior or decisions…."

Technological abuse means "an act or pattern of behavior that occurred within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies."

surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a person under the similar circumstances and with similar identities as the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may not necessarily require medical or other professional treatment or counseling.

Stalking also includes the concept of cyber stalking- in which electronic media is used to pursue, harass, or to make repeated unwanted contact with another person in an unsolicited fashion. Stalking may involve persons who are known to one another or have an intimate or sexual relationship, or may involve persons not known to one another.

B. SEXUAL MISCONDUCT OFFENSES IN ACCORDANCE WITH THE MISSION OF THE UNIVERSITY OF SCRANTON:

The University, in accordance with its mission, further prohibits conduct of a sexual nature, or conduct based on sex or gender, that goes beyond the definitions of Title IX as follows:

1. **University Sexual or Gender Based Harassment Definition**
2. **University Sexual Assault**
3. **University Sexual Exploitation Definition**
4. **University Intimate Partner Violence Definition**
5. **University Stalking**

1. UNIVERSITY SEXUAL OR GENDER-BASED HARASSMENT

University Sexual Harassment is defined as any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (a) below are present.

University Gender-based Harassment is defined as harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (a) below, are present.

a. Such conduct has the purpose or effect of creating 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 benefitting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

1. The frequency, nature and severity of the conduct;

2. Whether the conduct was physically threatening;
3. The effect of the conduct on the Complainant's mental or emotional state;
4. Whether the conduct was directed at more than one person;
5. Whether the conduct arose in the context of other discriminatory conduct;
6. Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
7. Whether the conduct implicates concerns related to academic freedom.

Sexual and gender-based harassment can take many forms:

- It can occur between equals (e.g., student-to-student, staff-to-staff, faculty member to faculty member, visitor/contractor to staff) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete).
- It can be committed by or against an individual, an organization or group.
- It can be committed by an acquaintance, a stranger, or someone with whom the Complainant has an intimate or sexual relationship.
- It can occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It can include physical conduct, verbal conduct, visual conduct, written conduct, and electronic conduct.

2. UNIVERSITY SEXUAL ASSAULT

University Sexual Assault is defined as any attempted or actual sexual act directed against another person, without consent of the complainant, including instances where the victim is incapable of giving consent, while under the jurisdiction of the University. Sexual assault is the penetration, no matter how slight, of the vagina or anus, with a body part (e.g., finger, hand or penis), or object, or oral penetration by a sex organ of another person, without consent of the complainant. Title IX sexual assault also includes sexual intercourse with a person who is under the statutory age of consent.

3. UNIVERSITY SEXUAL EXPLOITATION is defined as conduct that exploits another person in a sexual and non-consensual way, including, but not limited to:
    a. non-consensual touching, fondling, or kissing,
    b. causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity,
    c. non-consensual voyeurism (e.g., watching private sexual activity without the knowledge of all of the participants, from a hidden location or through electronic means),
    d. allowing others to view sexual activities without the consent of all of the participants,
    e. non-consensual recording or photographing of private sexual activity and/or a person's intimate parts (audio or visual),
    f. non-consensual dissemination or posting of images or recordings of private sexual activity and/or a person's intimate parts,
    g. exposure of one's body in an indecent or lewd manner,

h. sexual activity in public or semi-public places,
i. prostituting another person, or
j. knowingly exposing another person to a sexually transmitted infection or virus without the other's knowledge

4. UNIVERSITY INTIMATE PARTNER VIOLENCE is defined as any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual or other intimate relationship. Intimate Partner Violence includes threatening or causing physical harm or engaging in other conduct that endangers the health or safety of an intimate partner. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence can encompass a broad range of behavior, including, but not limited to, threats, assault, property damage, violence or threat of violence, to one's intimate partner or to the family members or friends of the partner.

5. UNIVERSITY STALKING is defined as a course of conduct (more than once) directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others, or suffer substantial emotional distress. Examples of stalking include: following the person without proper authority, or repeatedly communicating with another person under circumstances that place such other person in reasonable fear of bodily injury or that cause substantial emotional distress to such other person. Stalking includes the concept of cyber – stalking, a particular form of stalking in which electronic media is used to pursue, harass, or to make repeated unwanted contact with another person in an unsolicited fashion. Stalking may involve persons who are known to one another or who have an intimate or sexual relationship, or may involve persons not known to one another.

C. CONSENT AND RELATED CONCEPTS: Coercion, Incapacitation, and Alcohol and Other Drugs

Consent: The expectations of our community regarding sexual misconduct are summarized as follows:

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is an active and positive exchange of words or actions that indicate a willingness to participate freely and voluntarily in mutually agreed upon sexual activity. Effective consent cannot be given under the following circumstances:

1. A person is physically or mentally incapacitated, including when the incapacitation stems from alcohol or other drugs
2. A person is unconscious
3. A person is asleep and/or
4. A person is under the age of consent (16 in Pennsylvania)

Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in sexual activity. Relying on non-verbal communications

can lead to misunderstandings. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. The existence of a dating relationship between persons (including past sexual relations), by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity. Silence, passivity, lack of resistance, or lack of active response alone--without actions demonstrating permission--cannot be assumed to show consent.

Any party may withdraw consent at any time. Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Consent is not effective if it results from the use of physical force, threat of physical force, intimidation, coercion, incapacitation or any other factor that would impact an individual's ability to exercise their own free will to choose whether or not to have sexual contact.

Prior to engaging in sexual activity, each participant should ask oneself the question, "has the other person consented?" If the answer is "no" or "I'm not sure," then consent has not been demonstrated and does not exist. An individual who initiates sexual activity should be able to explain the basis for their belief that consent existed.

Coercion: Coercion is the use or attempted use of pressure and/or oppressive behavior, including expressed or implied threats, intimidation, or physical force, which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct cannot amount to coercion unless they wrongfully impair the others' freedom of will and ability to choose whether to engage in sexual activity. Coercion also includes administering or pressuring another to consume a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

Incapacitation: An individual who is incapacitated cannot consent to sexual activity. Incapacitation is the inability, temporarily or permanently, to give consent, communicate consent, or express unwillingness, because an individual is mentally and/or physically helpless, unconscious, asleep, or unaware that the sexual activity is occurring. Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness, intoxication or impairment. In assessing the impact of incapacitation, the University will consider whether a Respondent knew or should have known that the Complainant was incapacitated based on objectively and reasonably apparent indicators of incapacitation.

Alcohol or other drugs: The University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgements. Because alcohol or drug use can place the capacity to consent in question, sober sexual activity is less likely to raise such questions. When alcohol or other drugs are used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction because they lack the capacity to reasonably understand the situation. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the safest course of action is to forgo or

cease any sexual contact or activity. Being intoxicated or impaired by drugs or alcohol does not diminish an individual's responsibility to obtain informed and freely given consent.

VII. OVERVIEW OF OPTIONS

The University is committed to providing all members of the University community with a safe place to live, learn and work. Consistent with this priority, the University will respond promptly and equitably to all allegations of sexual harassment and sexual misconduct. Any individual may make a report under the Sexual Harassment and Sexual Misconduct Policy, which will initiate outreach to the Complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process for filing a formal complaint. The goal of this outreach is also to consider the nature of the report, the safety of the individual and of the campus community, the Complainant's expressed preference for resolution, and the necessity for any supportive measures to protect the safety of the Complainant or the community.

The University's response to allegations of misconduct under this policy is pursued in multiple stages: report, formal written complaint, notice, investigation, formal or informal grievance process, and appeal. At each of these stages, the University is committed to maintaining fairness for all parties and to balancing the needs and interests of the individuals involved with the safety of the community as a whole.

Although a report may originate from many sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator or designee, who will ensure consistent application of the policy to all individuals and allow the University to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and remedy its effects. The Title IX Coordinator or designee will consult with members of the Central Review Team and others that "need to know" in order to implement procedures under this policy.

Upon receipt of a formal written complaint alleging sexual harassment against a Respondent and requesting that the University investigate the allegations of harassment, the Title IX Coordinator or designee will issue a notice of allegations and investigation to the parties and initiate an investigation. The Title IX Coordinator or designee will assess whether conduct alleged in the formal written complaint constitutes a violation of the Title IX Sexual Harassment or University Sexual Misconduct policy, if proven. If the conduct alleged, if proven, does not violate Title IX Sexual Harassment definitions or jurisdiction, the Title IX Coordinator or the designee will dismiss some or all of the complaint. In cases where the alleged conduct is a possible violation of the University's Sexual Misconduct definitions or jurisdiction, the complaint will move forward pursuant to the grievance process set forth below.

Each resolution process is guided by the law and/or principles of fairness and respect for all parties. Any individual who violates these standards will be held accountable for their behavior through a process that protects the rights of both the Complainant and the Respondent. Resources are available for both students and employees, whether as Complainants, Respondents or witnesses, to provide support and guidance throughout the investigation and resolution of the complaint.

VIII. UNIVERSITY RESPONSE TO REPORTS OF SEXUAL HARASSMENT OR SEXUAL MISCONDUCT, SUPPORTIVE MEASURES, AND EMERGENCY REMOVAL

A. INITIAL CONTACT WITH COMPLAINANT

Upon receipt of a report of sexual harassment or sexual misconduct, the Title IX Coordinator or a Deputy Title IX Coordinator will promptly contact the Complainant to:

- Discuss the availability of supportive measures,
- Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint,
- Consider the Complainant's wishes with respect to supportive measures, and
- Explain to the Complainant the process for filing a formal complaint.

The Title IX Coordinator or Deputy Title IX Coordinator will also inform the Complainant of:

- The right to contact or decline to contact law enforcement if the conduct is criminal in nature, and if requested, assist them with notifying law enforcement.
- Notify the Complainant of the availability of treatment to address physical and mental health concerns.
- Notify the Complainant of the importance of preservation of evidence.
- Provide the Complainant with an explanation of the procedural options, including the informal process and the formal grievance process.
- Inform the Complainant that they may have an Advisor of their choosing to assist them throughout the investigation and resolution of the complaint, and that the Advisor may accompany them to any meeting or proceeding under this policy, and that they will be required to cross examine individuals if a formal hearing is pursued.
- Explain the prohibition of retaliation.

After meeting with the Complainant, the Title IX Coordinator or a Deputy Title IX Coordinator may contact the Respondent to discuss available supportive measures.

B. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

In cases in which the Complainant requests confidentiality/no formal action, and the circumstances allow the University to honor that request, the University will offer supportive measures to the Complainant and the community, but will not otherwise pursue formal action. If the Complainant elects to take no action, they can change that decision and pursue a formal complaint at a later date.

When the Title IX Coordinator proceeds with an investigation over the Complainant's objection, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may serve as a proxy for the Complainant at a Decision-Making Hearing for

cross examination purposes, acting to ensure and protect the rights of the Complainant at a Decision-Making Hearing, though this does not extend to the provision of evidence or testimony on behalf of the Complainant.[3]

C. SUPPORTIVE MEASURES

The University will take reasonable and appropriate supportive measures to protect the parties involved (Complainants and Respondents) and reduce any further risk for members of our campus community. The Title IX Coordinator or Deputy Title IX Coordinator will contact the parties and remain available to ensure that safety and emotional and physical well-being concerns are being addressed. Supportive measures are available to a Complainant with or without the filing of a formal complaint.

Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate, and as reasonably available, to the Complainant or the Respondent before or after the filing of a formal complaint, or where no formal complaint is filed. Supportive measures may be imposed at any time to ensure the preservation of the Complainant's and Respondent's educational experience and the overall University environment. Supportive measures will be kept private to the extent that maintaining the privacy would not impair the ability of the University to provide supportive measures.

A Complainant or Respondent may request an Administrative Order of No Contact or other supportive measure, or the University may choose to impose supportive measures at its discretion to ensure the safety of all parties, the broader University community, and/or the integrity of the process. A decision to arrange for an Administrative Order for No Contact or other protection need not be based on a finding of responsibility or the filing of a compliant, and shall not be interpreted as a finding of fault. Supportive measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered.

The University will maintain supportive measures private to the extent that maintaining such privacy would not impair the ability of the University from providing the supportive measures.

D. RANGE OF SUPPORTIVE MEASURES

Supportive measures are designed to restore or preserve equal access the University's programs or activities without unreasonably burdening the opposing party, and to deter sexual harassment. Supportive measures will be implemented at the discretion of and established by the Title IX Coordinator or Deputy Title IX Coordinator. The Title IX Coordinator or a Deputy Title IX Coordinator may convene the **Central Review Team** (see pg. 29) to assist in determining the appropriate supportive measures. The Title IX Coordinator or the Deputy Title IX Coordinators are responsible for coordinating the effective implementation of supportive measures. University employees, when called upon, are

[3] An Advisor may also serve as a proxy during the Decision-Making Hearing for a Respondent who does not wish to be involved for cross examination purposes.

required to assist the Title IX Coordinator or Deputy Title IX Coordinator with implementing effective supportive measures. Potential supportive measures, which may be applied to the Complainant and/or the Respondent, include but are not limited to:

- Instituting an Administrative Directive for No-Contact between involved parties.
- Limiting an individual's access to certain facilities or activities pending resolution.
- Providing referrals to counseling and health services.
- Referral to community-based service providers.
- Referring to the Employee Assistance Program.
- Providing education and advisories to the community.
- Altering the housing situation of the reporting or responding party.
- Offering adjustments to academic deadlines, course schedules, etc.
- Offering students Financial Aid Counseling.
- Providing academic support services, such as tutoring.
- Altering work arrangements for employees.
- Instituting administrative leaves of absence for employees.
- Assisting with visa and immigration issues.
- Providing campus escorts.
- Providing transportation assistance to the hospital.
- Issuing emergency removals pending a formal process and appeal (see VIII (E))
- Increasing security and monitoring of certain areas of the campus.
- Providing any other measure which can be tailored to the involved parties to achieve the goals of the University's policy.

E. IMPARTIALITY AND CONFLICT OF INTEREST

The Title IX Coordinator and the Deputy Title IX Coordinators act with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The Title IX Coordinator or designee will vet the assigned Investigator(s) to ensure impartiality and that there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another trained faculty or staff member will be assigned and the impact of the bias or conflict, if any, will be remedied.

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

The University operates with the presumption that the Respondent is not responsible for the reported misconduct, unless and until the Respondent is determined to be responsible for a policy violation by the clear and convincing standard of proof.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University's President, (Joseph Marina, S.J. Office of the President, Scranton Hall).

Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

F. EMERGENCY REMOVAL

1. Students

Where the report of sexual harassment or sexual misconduct poses an immediate threat to the physical health and safety of any student, other individual, or the campus community, the University may remove a Respondent who is a student on an emergency basis.

An emergency removal may deny a student access to campus, and/or it may or may not allow the student to continue their course work. The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- removing a student from a residence hall,
- restricting a student's access to or use of facilities or equipment,
- allowing a student to withdraw or take grades of incomplete,
- suspending a student's participation in extracurricular activities,
- removing a student from University employment,
- removing a student from organizational leadership, or
- restricting involvement with intercollegiate/ intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties in consultation with other necessary University personnel.

The Notice of Emergency Removal may be issued at any point during an investigation, as appropriate, according to the information and evidence available to the Title IX Coordinator or designee.

2. Notice of Emergency Removal

When the Title IX Coordinator or their designee determines that removal of a Respondent is necessary, they will provide the Respondent with a written notice. The Notice of Emergency Removal will include:

- The named parties in the matter;
- The potential policy violations involved, including any available information about the location, date and time of the incident(s);
- A description of any key facts or evidence used to determine that removal is necessary;
- Under what circumstances a Respondent may access campus and campus services, and contact information for those requests;
- Whether or not a student will be allowed to continue in their course work;

- The Appeal Process; and
- Deadline to appeal removal from campus

3. Appeal of Emergency Removal

When the Title IX Coordinator or their designee issues a Notice of Emergency Removal, they will include information on how the Respondent can appeal that decision. The decision to remove a Respondent from campus is not made on the merits of the allegations, but is rather an administrative process to provide for the physical health or safety of any student or other individual or the campus community. As such, any appeal of the Notice of Emergency Removal is only an appeal of the removal order; no inference can be drawn during the investigative or grievance process as a result of the appeal or its outcome.

An appeal of the Notice of Emergency Removal must be filed within three (3) business days of the initial notice being sent. Appeals will be directed to the Vice President of Student Life (students) or the Vice President for Human Resources (faculty or staff). Appeals must be filed via email and should contain the Respondent's reasons why the emergency removal should not occur, or reasons for appeal of the Emergency Removal. The reasons should be based upon the information provided in the Notice of Emergency Removal.

If an appeal is not filed within three (3) business days of the initial notice being sent, objections to the emergency removal are deemed waived.

The person who receives the appeal will have three (3) business days to provide a written response to both the Respondent and the Title IX Coordinator or designee. The decision on the appeal of the Notice of Emergency Removal can uphold, amend, or reverse the Notice of Emergency Removal.

If the Notice of Emergency Removal is amended or reversed, the Title IX Coordinator or their designee will review supportive measures for all parties to ensure they are appropriate. Regardless of the status of the Notice of Emergency Removal, supportive measures remain available for all parties, including, as appropriate, the Respondent who has been removed.

4. Employees Only

If the Respondent is an employee, the Respondent may be placed on administrative leave during the pendency of a grievance process per University contract and/or handbook. Employee Respondents are not entitled to appeal an emergency removal.

G. FORMAL COMPLAINTS

A formal written complaint must be filed if the Complainant wishes to pursue a formal or informal grievance process. If the Complainant only seeks supportive measures, a formal written complaint is not necessary. In most circumstances, the information contained after

section (G) is only applicable if the Complainant wishes to proceed with a formal or informal process or the Title IX Coordinator signs a complaint as set forth in G(2).

When the Title IX Coordinator signs the formal complaint, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may serve as proxy for the Complainant at the Decision-Making Hearing for cross examination purposes, acting to ensure and protect the rights of the Complainant.

1. By Complainant

A formal written complaint is a document filed by a Complainant or signed by the Title IX Coordinator or Deputy Title IX Coordinator alleging sexual harassment or sexual misconduct against a Respondent and requesting the University investigate the allegations of sexual harassment or sexual misconduct.

A Complainant may file a formal complaint in person, by mail, by electronic mail, or the on-line Incident Reporting form https://scranton.i-sight.com/external-capture) to the Title IX Coordinator or a Deputy Title IX Coordinator in the Office of Equity and Diversity Institute of Molecular Biology and Medicine, Suite 315 Phone: (570) 941-6645 E-mail: Elizabeth.garcia2@scranton.edu or Christine.black@scranton.edu
Website: www.scranton.edu/diversity. A complaint filed by the Complainant means a document or electronic submission (such as by electronic mail or through on-line portal at https://scranton.i-sight.com/external-capture) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

The Title IX Coordinator or a Deputy Title IX Coordinator will attempt to respect the Complainant's wishes on whether or not to file a formal complaint, and will refrain from filing a complaint unless there is a need to sign a complaint to protect the University's educational community, or to avoid deliberate indifference.

In cases in which the Complainant requests no formal process and the circumstances allow the University to honor that request, the University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue the formal process.

2. By Signature of the Title IX or Deputy Title IX Coordinator

Where the Complainant requests that their identity not be shared with the Respondent or that the University not pursue a formal grievance process, the University must consider this request in the context of the University's responsibility to protect the University's educational community or to avoid deliberate indifference. The University will consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution. Where possible and supported by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's request. In some situations, the Title IX Coordinator or Deputy Title IX Coordinator may

determine it is necessary to proceed. The determination as to whether the Title IX Coordinator or a Deputy Title IX Coordinator will sign a complaint, if the Complainant does not wish to proceed, will be based on information received from the Complainant during the initial meeting, and considering the following:

- The nature and circumstances of the report.
- Immediate physical safety & emotional well-being.
- Complainant's expressed preference for manner of resolution and any barriers to proceeding.
- The pattern evidence or other similar conduct by the Respondent/s.
- The seriousness of the conduct.
- Whether the Respondent has a history of prior arrests, is the subject of prior reports and/or complaints related to any form of sexual harassment or sexual misconduct, or has any history of violent behavior or has a criminal record or prior conduct violation (at the University of elsewhere) indicating a history of sexual misconduct, violence and/or patterned behavior.
- Whether the circumstances suggest there is an increased risk of the Respondent committing additional acts of sexual misconduct or other violence.
- Whether the Respondent threatened further sexual misconduct or other violence against a student or others.
- Whether the sexual misconduct was committed by multiple individuals.
- Whether the circumstances suggest there is an increased risk of future acts of sexual misconduct under similar circumstances.
- Whether a weapon was used during the course of the sexual misconduct.
- Whether the sexual misconduct was facilitated through the use of drugs or intoxicants.
- Whether the school possesses other means to obtain relevant evidence (e.g., security cameras, witnesses, physical evidence).

In cases where the University is unable to take action consistent with the request of the Complainant, the Title IX Coordinator will inform the Complainant about the chosen course of action, which will consist of the Title IX Coordinator or a Deputy Title IX Coordinator signing a complaint against the Respondent. If the Title IX Coordinator or Deputy Title IX Coordinator signs a formal complaint against a Complainant's wishes, the Title IX Coordinator must document the reasons why the decision was reached. The Title IX Coordinator or a Deputy Title IX Coordinator is not a Complainant or otherwise a party to the formal complaint.

H. CENTRAL REVIEW TEAM TO ASSIST IN SUPPORTIVE MEASURES, SIGNING A FORMAL COMPLAINT, OR IN INVESTIGATION AND RESOLUTION.

The Central Review Team, led by the Title IX Coordinator, assists, when convened by the Title IX Coordinator or a Deputy Title IX Coordinator, with supportive measures, with determining when to sign a formal complaint when a Complainant does not file a formal complaint, and with an investigation into and/or a resolution of the formal complaint. Members of this review team may include the Title IX Coordinator, the Assistant Director of the Office of Equity and Diversity, the Dean of Students, the Vice President for Human Resources, and others as may be necessary.

In many cases, the Title IX Coordinator or designee may assess the information provided with the assistance of the Central Review Team to determine if any of the following actions are necessary:

- Emergency removal of a student Respondent on the basis of immediate threat to physical health/safety.
- Placement of an employee Respondent on administrative leave.
- Pursuit/signing of a formal complaint by the Title IX Coordinator absent a willing/able Complainant.
- Identify the matter as an incident and/or pattern and/or climate.
- Assist in identifying potential predatory conduct.
- Assess/identify grooming behaviors.
- Whether it is reasonable to try to resolve a formal complaint through the informal process, and what modality may be most successful.
- Determine whether to permit a voluntary withdrawal by the Respondent.
- Impose transcript notation or communicate with a transfer University about a Respondent.
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

I. TIME FRAME FOR RESOLUTION

The University will make every effort to resolve all reports through a decision-making panel grievance process within 75 to 90 calendar days from the receipt or signing of the written formal complaint. The time allotted for the Appeal process is not included in the 75 to 90 calendar days. However, any time period expressed in this policy, including the 75 to 90 calendar days, may be extended for good cause and with written notice to the parties of the delay and the reason for the delay. Good cause may exist due to a variety of factors, including the complexity of the circumstances of each case, the integrity and completeness of the investigation, to provide the Respondent with every opportunity to be interviewed, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations or periods of time when the University is not in session, or the Complainant or Respondent are abroad, the need to obtain translators, accommodations for disabilities, or to address other good cause reasons.

Best efforts will be made to complete the process in a timely manner by balancing the principles of thoroughness and fundamental fairness with promptness. Where the Respondent is a second semester senior, the University may withhold that student's University degree pending conclusion of the process.

J. OFF-CAMPUS LAW ENFORCEMENT OR CRIMINAL INVESTIGATION

The University encourages Complainants to pursue criminal action for behaviors that may also constitute crimes under Pennsylvania law. The University, through the University of Scranton Police Department, will assist a Complainant in making a criminal report and will

cooperate with local law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this policy, criminal investigations are not determinative of whether sexual misconduct, for purposes of this policy, has occurred. In other words, conduct may constitute a violation under this policy even if law enforcement agencies decline to prosecute or if a Respondent has been found not guilty in the legal system.

IX. SUPPORT AND ADVISOR ROLE DURING PROCESS

A. ADVISORS

During any stage of the process where a personal appearance is necessary, the Complainant and the Respondent have the right to have an Advisor present if they so choose. The Advisor may be a member of the University community, a family member, friend, attorney, or other person chosen by each party. At a time prior to the convening of the Decision-Making Panel, the Advisor may confer quietly with the Complainant or Respondent to provide advice or support, but the Advisor cannot speak on behalf of the Complainant or Respondent or otherwise actively speak during the meeting, or disrupt it in any way.

During any stage of the process where the Complainant and Respondent wishes to communicate via email with the Title IX Coordinator or Deputy Title IX Coordinator, the Complainant and Respondent have the right to copy their Advisor on any communication; The Title IX Coordinator or Deputy Title IX Coordinator will primarily communicate with the Complainant or Respondent, but under certain circumstances at the Title IX or Deputy Title IX Coordinator's discretion, they may communicate with the Complainant or Respondent's advisor(s). It is the responsibility of the Complainant and Respondent to provide the Title IX Coordinator or the Deputy Title IX Coordinator with the name and contact information of their Advisor, prior to the distribution of a completed investigation report.

During the cross-examination stage of a Decision-Making Hearing, both the Complainant and the Respondent, must have an Advisor. If the Complainant or Respondent do not have an Advisor, the University will provide an Advisor of the University's choice to the Complainant and/or Respondent without fee or charge to conduct their cross-examination. At the time that the Title IX Coordinator provides the Investigation report and evidence for review, they will ask parties to provide or confirm the name of their Advisor. A Complainant and/or Respondent who does not have an Advisor for cross-examination at the Decision Making Panel Hearing must contact the Title IX Coordinator or Deputy Title IX Coordinator within three (3) business day of being notified of the date and time of the Decision-Making Panel Hearing. If they do not have an Advisor, or if the parties do not respond, an Advisor will be assigned from a pool of trained faculty and staff.

B. RIGHT TO UNION REPRESENTATION FOR FULL-TIME FACULTY

When a full-time faculty member is named as a Respondent, they may choose to have a Faculty Affairs Council (FAC) representative serve as their Advisor at any point in the process

where a personal appearance is necessary, in accordance with Appendix C. (Faculty Right to Representation Sheet).

When the faculty member is notified of an inquiry, the Title IX Coordinator will attach Appendix C to the notification. If the inquiry proceeds to the grievance process, the Faculty Affairs Council Chair will be notified that a formal investigation will proceed by the Title IX Coordinator in writing. The Title IX Coordinator will not inform the Chair of FAC of the name of the faculty member.

C. RIGHTS TO DISCUSS ALLEGATIONS OR EXPERIENCES

Parties involved in a sexual harassment or sexual misconduct process are free to discuss the allegations that are part of a report or complaint. While the University will never discourage a party from sharing their experiences, a witness or opposing party may have their credibility challenged on the basis of their memory versus a shared memory.

IX. GRIEVANCE PROCESS

A. WRITTEN FORMAL COMPLAINT

A formal written complaint must be filed if the Complainant wishes to pursue a formal or informal grievance process. If the Complainant only seeks supportive measures, a formal written complaint is not necessary. A formal complaint is a document filed by a Complainant (or signed by the Title IX Coordinator or Deputy Title IX Coordinator) that must include information regarding (1) the alleged sexual harassment or sexual misconduct against a Respondent, and (2) a request for the University to investigate the allegations of sexual harassment or sexual misconduct. The written complaint should include, if known,

- the name of the Respondent,
- the date and location of the incident
- any information available regarding the alleged sexual harassment or sexual misconduct,
- a request that the Title IX Coordinator investigate the complaint; and
- the Complainant's signature

The formal complaint can be filed in person, by post office mail, by inter-office mail, by electronic mail, or by completing the on-line Incident Reporting form https://scranton.i-sight.com/external-capture), to the Title IX Coordinator in the Office of Equity and Diversity Institute of Molecular Biology and Medicine, Suite 315 Phone: (570) 941-6645 E-mail: Elizabeth.garcia2@scranton.edu Website: www.scranton.edu/diversity.

A document filed by the Complainant means a document or electronic submission (such as by electronic mail or through the on-line portal at https://scranton.i-sight.com/external-capture) that contains the Complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Upon receipt of the complaint, the Title IX Coordinator or a Deputy Title IX Coordinator may contact the Complainant if additional information is needed.

B. NOTICE OF FORMAL COMPLAINT TO THE PARTIES

Upon receipt of a formal written complaint, the Title IX Coordinator or a Deputy Title IX Coordinator will provide a written notice (known as a Notice of Allegations and Investigation) to the known parties containing the following information:

- Notice of the University's formal and informal grievance process.
- Notice of the allegations of sexual harassment or sexual misconduct, including sections of the policy implicated and sufficient details known at the time.
- The identities of the parties involved in the incident, if known.
- The conduct allegedly constituting sexual harassment or sexual misconduct.
- Date and location of the alleged incident, if known.
- Statement that the Respondent is presumed not responsible for the alleged conduct until the conclusion of the appropriate grievance process.
- Notice that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney.
- Notice that the parties may inspect and review evidence.
- Notice that the University's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process, according to Sections #10 and # 22 of the University's Code of Conduct.
- Provide sufficient time (up to 3 business days) for the respondent to prepare for an initial interview.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the Notice, the University will provide notice of additional allegations to the parties whose identity is known.

C. COLLECTION OF INFORMATION TO REVIEW

Upon receipt of a Written Formal Complaint, and issuance of the Notice of Allegations, the Title IX Coordinator or their designee will meet with all named Complainants and Respondents to collect any information and evidence that may be used to determine whether it is necessary to:

- dismiss under VI. A. Title IX Offenses, or
- proceed under VI. A. Title IX Offenses, or
- dismiss under VI. B University Offenses, or
- proceed under VI. B University Offenses, or
- proceed both under VI.A and VI. B. University Offenses, or
- dismiss both under VI.A and VI. B. University Offenses.

Supportive measures will be offered or adjusted as appropriate to the information collected. Any dismissals, changes, or additional violations will result in an Update Formal Notice being sent to all parties.

D. DISMISSALS FOR FORMAL COMPLAINTS

1. Mandated Dismissals Per The Federal Regulations

The Department of Education regulations mandate a Title IX Coordinator or their designee to dismiss complaints or sections of complaints, if:

- The conduct alleged in the formal written complaint would not constitute Title IX Sexual Harassment (if proven).
- At the time of filing the formal complaint, the Complainant is not participating in or attempting to participate in an education program or activity of the University.
- The conduct alleged occurred outside of the University's program or activity.
- The education program or activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- The conduct alleged did not occur against the Complainant in the United States.

If the Title IX Coordinator or designee is required to dismiss a Title IX complaint because of the reasons stated above, the Title IX Coordinator may still determine that it is appropriate to proceed with the complaint under the University Sexual Misconduct definitions and/or jurisdiction. The Title IX Coordinator will assess whether the conduct alleged in the formal complaint, if proven, constitutes a possible violation of the University Sexual Misconduct definitions. The Title IX Coordinator will provide the Complainant with the potential violations that are still outstanding after dismissal under Title IX Sexual Harassment and/or reinstatement under University Sexual Misconduct.

Once informed of the resulting potential violations, the Complainant will need to decide whether to proceed through the formal process, the informal process, or if they prefer to request discretionary dismissal. If the Complainant decides to move forward with the formal process, it does require them to participate in a Decision-Making Hearing. For the Complainant to participate in the informal process, both parties must agree to use the informal process and agree to any informal resolution that is reached.

If the parties agree to proceed with an informal process, the Title IX Coordinator or Deputy Title IX Coordinator can decide to place an investigation on hold, and if the informal process is successful, the matter is concluded.

An informal process is not permitted if one party is a student and the opposing party is an employee of the University.

2. Discretionary Dismissal Per The Regulations

At the Title IX Coordinators' discretion, the University may choose to dismiss a formal complaint during the investigation or Decision Making Hearing, if:

a. The Complainant notifies the Title IX Coordinator or their designee in writing that the Complainant would like to withdraw the complaint or any allegations therein.
b. The Respondent is no longer enrolled or employed by the University.
c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

When the University receives a Complainant's withdrawal request during the investigation or hearing, the Title IX Coordinator or Deputy Title IX Coordinator may dismiss the complaint or may decide to continue with the investigation and hearing in certain situations. Specifically, when the information obtained supports that the respondent may pose an ongoing risk to the University community, where the recipient has gathered evidence apart from the complainant's statements and desires to reach a determination regarding the Respondent's responsibility, when a determination regarding responsibility provides a benefit to the complainant even where the recipient lacks control over the respondent and would be unable to issue disciplinary sanctions, or other reasons.

Situations that may present "special circumstances" supporting dismissal:

1. When no Complainant is identified during the investigation. Without knowing a complainant's identity, the University may not be able to gather evidence necessary to establish elements of conduct defined as 'sexual harassment'.
2. When a formal Complaint contains allegations that are precisely the same as allegations the University previously investigated and adjudicated.

Special circumstances is not the equivalent of the University deciding that the evidence gathered has not met the standard of proof threshold or other measure of the quality or weight of the evidence, but rather is intended to apply narrowly to situations where specific circumstances prevent the University from meeting its burden to gather sufficient evidence to reach a determination.

E. WRITTEN NOTICE OF DISMISSAL

Upon a determination by the Title IX Coordinator or a Deputy Title IX Coordinator that all or portions of a formal complaint must be dismissed, the Title IX Coordinator or a Deputy Title IX Coordinator will simultaneously provide the Complainant and Respondent with written notice of the dismissal or partial dismissal, the reasons for the full or partial dismissal, and, if a partial dismissal, what allegations will proceed through the process.

A Complainant or Respondent may appeal a full or partial dismissal of a Formal Written Complaint in accordance with the Appeal Process included in Section XIII.

F. INFORMAL PROCESS

The Informal Process is designed to eliminate sexual harassment and/or sexual misconduct without the need for a full investigation, hearing, or determination. The Informal Process is only available after the receipt of a Formal Written Complaint and is utilized only when both the Complainant and Respondent agree to use the process. When the Title IX Coordinator is able to resolve a matter using only supportive measures, the Informal Process may be unnecessary.

The Informal Process is not available as an option when a Complainant is a student who alleges sexual harassment or sexual misconduct against a Respondent who is a faculty or staff member at the University, or vice versa.

The parties may elect to engage in the informal process at any time prior to a Decision-Making Panel finding; however, both parties must indicate their agreement to participate in the informal process in writing. Once the parties agree in writing to engage in the informal process, they will receive from the Title IX Coordinator or designee a written notice with the following information that includes:

- The allegations.
- The requirements of the Informal Process including the circumstances under which it precludes the parties from resuming a formal complainant arising from the same allegations.
- A party's right to withdraw from the Informal Process and resume the grievance process with respect to the formal complaint at any time prior to agreeing to a resolution.
- Any consequences resulting from participating in the Informal Process, including the records that will be maintained or could be shared.

If the parties opt for an informal process once a formal process has commenced, the formal process will be placed on hold pending the resolution of the informal process, unless the parties agree otherwise in writing that the interviews and factual information may continue to be collected during the informal process in the interest of time. An Informal Resolution must be completed within 30 calendar days. If, after 30 days, the facilitator determines that an informal process is not likely to resolve in a mediated resolution, the facilitator must notify the Title IX Coordinator or designee of the steps taken to reach a resolution, and why a resolution is not feasible or likely.

In the alternative, if the facilitator believes that the parties are likely to reach a resolution, or for other good cause shown, the facilitator may request an extension of time with the written consent of the parties and with the approval of the Title IX Coordinator. The facilitator must provide the Title IX Coordinator or designee with periodic updates on when meetings occurred and the status of the process.

Informal resolutions will be facilitated by a trained member of faculty or staff, or a trained professional.

At the conclusion of the Informal Process, the facilitator must provide the agreed-upon resolutions to the Title IX Coordinator or designee. The Title IX Coordinator is responsible to ensure that any agreed upon-resolution(s) are implemented and that they will facilitate their implementation.

To ensure the neutrality of the facilitator and to encourage Complainants and Respondents to feel comfortable sharing information with the facilitator to achieve a resolution, facilitators cannot be called as witnesses if the informal process is not successful and the matter reverts or proceeds to a formal process.

More information on the Informal Process can be found in Appendix F.

XI. FORMAL GRIEVANCE PROCESS

A. INVESTIGATION

1. OVERVIEW OF THE INVESTIGATION

When the formal written complaint moves forward to an investigation, the Title IX Coordinator will initiate an investigation. The investigation is designed to provide a fair, objective, and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, without conflict of interest or bias, and all individuals will be treated with appropriate sensitivity and respect. As described in the Privacy and Confidentiality section, the investigation will be conducted in a manner that is respectful of individual privacy concerns.

If an Administrative Order for No Contact is in place, the Complainant and Respondent are encouraged to inform the investigator that the other person may have relevant evidence. The investigator is responsible for collecting necessary evidence. Direct contact between a Complainant and Respondent may be a violation of the Administrative Order for No Contact.

The Complainant and Respondent may have as much or as little involvement in the process as they wish.

2. INVESTIGATOR(S)

The University will designate an Investigator(s) who has training and experience investigating allegations of sexual harassment and/or sexual misconduct, including but not limited to relevance of evidence, conflict of interest, and investigation without bias. The Investigator(s) may be a trained employee of the University or an external investigator engaged to assist the University in its fact gathering, or both. The University will typically use a single Investigator or team of two investigators with one individual having primary responsibility for the investigation. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest or bias. The investigator will conduct the investigation with the presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

3. INVESTIGATIVE STEPS

The Investigator(s) will conduct the investigation in an appropriate manner in light of the circumstances of the case. The Investigator(s) will coordinate the gathering of inculpatory and exculpatory information from the Complainant, the Respondent, and any other individuals who may have information relevant to the matter. The Investigator(s) may consider prior or subsequent conduct that is relevant to evaluating the current conduct. Investigative interviews may be audio and/or video -recorded. The Investigator(s) will also gather any available physical evidence, including documents, communications between the

parties, and other electronic records as appropriate and as described more fully below. The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information.

4. COMPLAINANT AND RESPONDENT INTERVIEWS

The Investigator(s) will interview the Complainant and Respondent separately. Each party will be asked to participate in an initial interview and may be asked to participate in follow up interview(s) as needed. During the interview, Complainants and Respondents will be asked to identify witnesses with relevant information or evidence.

5. RECORDING OF INTERVIEWS

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

6. OTHER SEXUAL HISTORY

The sexual history of a Complainant or Respondent will never be used as evidence of their character or reputation. An investigation under this policy may consider prior or subsequent sexual history, if it is offered, to provide evidence that someone other than the Respondent committed the alleged conduct, or if the evidence concerns specific incidents of the Complainant's sexual history with respect to the Respondent and is offered to prove consent. As noted in VI.C of the policy: whether someone consented to sexual conduct on a prior or subsequent occasion is not considered relevant as to whether that person consented on the occasion of the alleged incident. Consent must be sought and received each time and for each act. Any prior or subsequent sexual history between the parties will only be used to help understand the manner and nature of communication between the parties, and the context of their relationship.

If the Investigator(s) and Title IX Coordinator determine that prior or subsequent sexual history should be considered, both the Complainant and Respondent will be notified and have the opportunity to provide any additional relevant information to the Investigator(s).

7. WITNESS INTERVIEWS

The Investigator(s) will make a good faith effort to contact and interview any relevant witnesses identified by the parties or in the documentation, including those no longer at the University. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. This includes both inculpatory and exculpatory information. The Investigator(s) may also interview any other individual they find to be potentially relevant to the allegations of the complaint. The Investigator(s) will inform each witness and other individuals interviewed that they are prohibited from retaliating against the Complainant and Respondent or other witnesses, and request that the witnesses respect the privacy of the parties and the integrity of the process. Investigators may request type of information that will be provided by a

proposed witness from a Complainant or Respondent prior to deciding whether to interview a witness. Investigators may determine not to interview a witness if it is apparent that the witness did not observe the acts in question or have information relevant to the incident and or is only presented as a witness to speak about an individual's character.

8. EXPERTS

The Investigator(s) may contact any expert they determine is necessary to ascertain the facts related to the complaint. An expert witness may be contacted for an informal consultation or for a professional opinion regarding information learned from the investigation. The Complainant and Respondent are also permitted, at their personal expense, to provide expert witnesses in their investigation proceedings if the information offered by the expert witness contains information relevant to the investigation.

9. DOCUMENT/RECORDS REVIEW

In addition to reviewing any documents submitted by the Complainant and Respondent, the Investigator(s) will try to obtain such other evidence relevant to the investigation as the Investigator(s) determines, in their judgment, to be necessary, including but not limited to: documents, police records, electronic or other records of communications between the parties or witnesses, or any other relevant information. This includes both inculpatory and exculpatory relevant evidence. In obtaining such information, the Investigator(s) will comply with applicable laws and University policies. A party's medical or mental health records are confidential under law. If a party voluntarily decides to share medical or mental health records with the Investigator(s), the party must provide the investigator(s) with written consent to utilize the records. The relevant portions of the records will be shared with the opposing party and included in the investigation report.

10. SITE VISITS

The Investigator(s) may visit relevant sites or locations and record observations through written or electronic documentation, such as videos or photographs.

11. CONSOLIDATION OF INVESTIGATION AND CONSIDERATION OF OTHER CONDUCT BY A RESPONDENT

The Title IX Coordinator or designee has the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant in reaching a determination in the other incidents. If the investigations involving more than one Respondent, or in which more than one Complainant have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or Decision Making Hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint Decision Making Hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

In addition, in gathering the facts, the Investigator(s) may consider other prior or subsequent allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant. Such information may be relevant to prove motive, intent, absence of mistake, pattern, or another material fact.

12. INVESTIGATION REPORT

a Contents of Report

At the conclusion of the investigation, the Investigator(s) will prepare a written investigation report that identifies the allegations potentially constituting sexual harassment and/or sexual misconduct, describes the procedural steps taken from the receipt of the formal complaint through the completion of the investigation (including any notifications to the parties), a list of all documents and other relevant evidence (including but not limited to photographs, social media posts, videos, emails, etc.) and of the information gathered, summaries of interviews with the Complainant, Respondent, third-party witnesses, experts, and any other individuals with relevant information, photographs of relevant sites or physical evidence, electronic records, and forensic or other evidence that is both inclupatory and exculpatory. The report should include a list of the specific violations that are being brought to the Decision-Making Panel, in case any of the violations have been modified, clarified or added during the investigation.

In preparing the report, the Investigator(s) will review all facts gathered to determine whether the information is relevant and material to a determination of responsibility given the nature of the allegation. In general, the Investigator(s) may redact information that is irrelevant, or immaterial. The Investigator(s) may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

b. Review of Investigation Report

Upon completion of the preliminary report, the Complainant and Respondent (and their respective Advisors) will be given the opportunity to review the information (the preliminary report and evidence) that will be used in reaching a determination of whether the policy has been violated. In addition to the information included in subparagraph “a” of Investigation Report, the parties will also receive evidence which was collected that the decision maker(s) may decide not to consider in reaching a determination, including inculpatory and exculpatory evidence obtained from a party, witness or other resources.

The Title IX Coordinator or their designee will provide each party and their named Advisor with access to the report, in a view only format, via an online website that will allow all parties to review all material collected by the investigator, and the investigator’s report. Parties will not be able to print or download the material, and are prohibited from photographing the materials.

The Complainant and Respondent may submit any additional evidence and/or a written submission to the Investigator(s) within ten (10) calendar days of being notified of the opportunity to review the report.

Upon receipt of any additional information from the Complainant or Respondent, or after the ten (10) calendar day comment period has lapsed without comment, the Investigator(s) will prepare the final investigation report.

The final investigation report will be sent to the Complainant and Respondent, and their respective Advisors, at least ten (10) calendar days before a Decision-Making Hearing. The final investigation report and all evidence will also be made available at the Decision-Making Hearing at the same time as it is distributed to the Complainant and Respondent.

B. HEARING PROCESS

1. PREPARING FOR THE HEARING

The Complainant and Respondent must have an Advisor present during the Decision-Making Hearing for purposes of cross examination. While the parties are entitled to an Advisor at all stages of the process, at the time that the Title IX Coordinator provides the parties with the investigative report and evidence, they will be asked to name their Advisor.

If a party does not identify an Advisor within three (3) business days of being informed of the date and time of the Decision Making Hearing, the Title IX Coordinator will assign an Advisor from a trained pool of faculty and staff free of charge to conduct cross examination on behalf of the party. If the party objects to the Advisor selected, they must notify the Title IX Coordinator at least 3 business days prior to the commencement of the Decision-Making Hearing.

If necessary, the Title IX Coordinator may also arrange for Decision-Making Hearings to be conducted virtually with any or all parties, witnesses, and other participants to appear using technology that enables participants to simultaneously see and hear each other.

2. Recordings

All Decision Making Hearings (but not deliberations) will be audio or audio/visually recorded by the University for the purpose of an appeal. If the Complainant or Respondent objects to the Decision Making Hearing being audio or visually recorded, they must contact the Title IX Coordinator at least 3 business days in advance of the Decision-Making Hearing to discuss their objection. If the Complainant or Respondent object to audio or audio/visual recording, the Title IX Coordinator may elect to hire a transcriber. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment, as determined by the discretion of the Title IX Coordinator No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

3. Accommodations for Decision Making Hearings

If a party or parties require accommodations in order to participate in the Decision-Making Hearing, the party must request alternative arrangements from the Title IX Coordinator at least three (3) business days prior to the Decision-Making Hearing.

Reasonable accommodations can be made as appropriate to allow all parties to participate, including translators or additional technology.

At least three (3) business days prior to the Decision-Making Hearing, any party wishing to have the Decision-Making Hearing occur with the parties located in separate rooms, with technology enabling the Decision Making Panel and parties to simultaneously see and hear the party or witness answering questions, must contact the Title IX Coordinator or designee to make the request. The request should be in writing, and may be sent electronically.

Any witness who cannot attend in person must let the Title IX Coordinator or the Chair know at least three (3) business days prior to the Decision-Making Hearing so that appropriate arrangements can be made.

4. DECISION-MAKING PANEL

The Title IX Coordinator or designee will assign the matter to a Decision-Making Panel to determine whether a violation of policy has occurred by applying the clear and convincing evidence standard. The Decision-Making Panel members are trained to participate as informed and impartial decision-makers. The Decision-Making Panel consists of three individuals, two of whom must be employees of the University chosen from a pool of trained faculty and staff. The third member may be an external professional or a University employee. The Decision-Making Panel is trained in the use of the technology to be used at a Decision-Making Hearing; issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predispositions or prior sexual behavior are not relevant; the clear and convincing burden of proof on the University; providing an equal opportunity for the parties to present witnesses, including fact and expert witness, and other inculpatory and exculpatory evidence; relevant cross examination questions and follow up questions by the parties' Advisors, including credibility questions; service without a conflict of interest or bias; and the University's definition of consent.

The Decision Making Panel will review the final investigation report and the evidence collected by the investigator prior to a Decision-Making Hearing.

At the hearing, the Decision Making Panel has the authority to hear and make determinations on all allegations of sexual harassment, sexual misconduct and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the allegations, even though those collateral allegations may not specifically fall within the Policy.

5. ROLE OF THE ADVISOR DURING A HEARING

During the cross examination stage of the Decision-Making Hearing, both the Complainant and the Respondent must have an Advisor to cross examine the opposing party and witnesses. At the time that the Title IX Officer provides the Investigation report and evidence for review, they will ask parties to confirm or provide the name of their Advisor. Once the party provides the name and contact information of their Advisor, the Title IX Coordinator will grant that Advisor access to the investigative report and evidence files.

If an Advisor does not appear on the day of the Decision-Making Hearing, the Decision Making Panel must contact the Title IX Coordinator or designee, and the Decision-Making Hearing must be rescheduled.

If a party is assigned an Advisor, and that party refuses to work with the Advisor when the Advisor is willing to conduct cross-examination on the party's behalf, that party does not get to self-represent during cross-examination, and cannot pose any cross-examination questions. A party in the Decision-Making Hearing cannot fire their assigned Advisor, but if they have concerns over whether their Advisor is not effectively performing cross-examination, they may request a sidebar with the Decision-Making Panel to obtain approval to direct their Advisor to perform more effective cross-examination. They may also request a sidebar to determine if it is appropriate to stop the Decision-Making Hearing and assign a different Advisor.

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

6. ADVISOR CODE OF DECORUM

Advisors are asked to play a vital role in the University's resolution of matters under the Sexual Harassment and Sexual Misconduct policy. Advisors must remember that anyone who proceeds to a Decision Making Hearing is a member of the University community, and that they are to be treated with respect, dignity, and consideration. Please see Appendix (E) for the Advisor Code of Decorum.

7. HEARING PROCEDURES

During the Hearing, the Chair is responsible for conducting the hearing, and minimizing any disruptions. If the Chair requires assistant with logistics, the Chair will request that a staff person from the Office of Equity and Diversity be assigned to assist with recording, witness logistics, party logistics, curation of documents, separation of the parties, and other elements of the hearing process. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space;

contacting support for technological difficulties; copying and distributing materials to participants, as appropriate, etc.

8. HEARING PROCESS

a. Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may be the final opportunity to challenge or request a recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

b. Investigator Presents the Final Investigation Report

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). Neither the parties nor the Decision-maker(s) can ask the Investigator(s) their opinions on credibility, findings, or determinations. If such information is introduced, the Chair will direct that it be disregarded.

c. Testimony and Questioning

The Decision-Making Panel must allow each party's Advisor to cross examine the opposing party and any witnesses so long as the questions are relevant. Relevant questions include questions posed to challenge a person's credibility.

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to direct questioning by the Decision-maker(s) and then to cross-examination by the parties through their Advisors. Cross-examination questions must be conducted directly, orally, and in real time by the party's Advisor of choice, or if the party(ies) do not have an Advisor of their own selection, an Advisor provided by the University. The Complainant and Respondent are not permitted to directly cross examine each other or any other witnesses during a Decision-Making Hearing.

The Chair must allow each party's advisor to cross examine the other party and any witnesses so long as the questions are relevant. Relevant questions include questions posed to challenge a person's credibility. All questions are subject to a relevance determination by the Chair.

If, during cross examination, an Advisor asks questions related to the answering party's sexual predisposition or prior sexual behavior, the Decision-Making Panel Chair must not allow the party being cross examined to answer the question. The Advisor must be reminded that the question is not relevant and not allowed, unless the Decision-Making Panel has determined that the question is being offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concerns specific incidents of the Complainant's prior sexual behavior with respect

to the Respondent and is being offered to prove consent, and by weighing the University's consent definition.

The Advisor, who will remain seated during questioning, will pose the proposed question orally. The Advisor will normally be granted latitude to conduct their own cross-examination, with the Chair interjecting when a question is irrelevant, needs clarification, or for other reasons should be modified or disallowed. If necessary, the Chair will instruct the Advisor to conduct their cross-examination by asking a question and then pausing to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased. The Chair has full discretion to determine when this additional step is necessary.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

When a cross-examination question questions facts of sexual predisposition or prior sexual behavior, the Chair must not allow the party being cross examined to answer the question, and inform the advisor that the question is not relevant and not allowed, unless the Decision Making Panel determines that the question is being offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent, and by weighing the University's consent definition.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not formally raised as an issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

C. DECISION-MAKING PANEL DELIBERATIONS, STANDARD OF PROOF, AND NOTICE OF OUTCOME

After the Hearing is concluded, the Decision Making Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for some or all of the alleged policy violations by ***applying the clear and convincing standard***. A simple majority vote is required to determine the finding.

The Clear and Convincing Evidence standard of proof is to determine if a finding of

responsibility is appropriate. Clear and convincing means that the evidence is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable.

Where there is evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a policy violation, this information may be deemed relevant to the determination of policy violation and/or a sanction. Where there is a prior finding of a policy violation by the Respondent for a similar act of prohibited conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a sanction.

The Decision-Making Panel will prepare written decision, called a Notice of Outcome, applying the clear and convincing standard and sanctions and/or remedies. The Decision-Making Panel's Notice of Outcome must include the following information:

- Identification of the allegations constituting Title IX Sexual Harassment or Sexual Misconduct (and, if appropriate, other charges contained in the Notice of Allegations).
- A description of the procedural steps taken from the receipt of the formal complaint through the determination (including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held).
- Findings of fact supporting the determination.
- Conclusions regarding the application of the policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including:
    - any disciplinary sanctions the Decision Making Panel imposes on the Respondent, and
    - whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant
- The University's procedures and permissible bases for the Complainant and Respondent to appeal dismissal of the complaint or the Decision Making Panel's determination.

D. SANCTIONS AND/OR REMEDIES

If the Decision-Making Panel finds the Respondent responsible, they must contact the Title IX Coordinator or designee to determine if the Respondent has previous sanctions. If the Title IX Coordinator or designee finds that the student, faculty or staff member was previously subjected to sanctions, the Title IX Coordinator will arrange for a meeting (phone, in person, or virtually) between the Decision-Making Panel members and the Vice President for Student Life (Students), or the Vice President for Human Resources (Faculty and Staff), to assist in determining the proper sanctions.

The Decision-Making Panel is responsible for determining the proper sanctions. The sanctions should be designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the Catholic and Jesuit educational mission of the University and its Title IX obligations.

Further information about Sanctions can be found in Appendix (B).

Within five (5) days of the sanction(s) and/or remedies being decided, the Notice of Outcome will be sent to the Title IX Coordinator, unless the Title IX Coordinator grants an extension due to the length or complexity of the decision.

F. NOTICE OF OUTCOME WRITTEN DECISION

Both the Respondent and Complainant will simultaneously receive the Notice of Outcome from the Title IX Coordinator or designee within five (5) business days of receiving it from the Decision Making Panel. To provide notice of outcome, University-issued e-mail is the primary means of communication. An alternative method of notice may include through the U.S. Mail or equivalent mailing to the local or permanent address of the individual as indicated in official University records.

The University may also notify appropriate University officials of the sanction and/or remedies, such as the Chief of the University Police Department, Residence Life staff and/or coaches, as necessary, to implement the outcome and/or sanctions.

G. WITHDRAWAL OR RESIGNATION WITH OPEN MATTERS

1. Students

Should a student decide to not participate in the resolution process, the process will proceed absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues or concerns, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all programs and activities of the University. A hold will be placed on their ability to be readmitted. They may also be barred from University property and/or events.

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

2. Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University. The records retained by the Title IX Coordinator will reflect that status, and notice of that status will be provided to Human Resources and the Provost as appropriate.

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

XIII. APPEAL

The Complainant and/or Respondent may appeal a determination regarding responsibility, and from a dismissal or partial dismissal of the formal complaint. The dismissal, outcome and/or sanction can be appealed by either party within five (5) business days from the time of notification of the decision. A review of the matter will be prompt and narrowly tailored to stated appeal grounds. The limited grounds for appeal are as follows:

- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- Procedural irregularity that affected the outcome of the matter; or
- The Title IX Coordinator or designee, investigator(s), or decision maker(s) 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.

Appeals must be in writing and submitted to the Vice President for Student Life or their designee (for students) or the Vice President for Human Resources or their designee (for employees) with a copy to the Title IX Coordinator. The appeal shall consist of a plain, concise, and complete written statement of the grounds for the appeal. Dissatisfaction with the outcome of the investigation is not grounds for appeal.

The designated University official to whom the appeal was submitted shall determine whether grounds for appeal have been met and, if so, refer the Appeal to the Title IX Coordinator to convene the Appeal Panel. The Title IX Coordinator will provide the opposing party notice of the Appeal. Both the Complainant and Respondent will be provided with the opportunity to submit a written statement supporting or challenging the outcome of the decision. Any response to the Appeal must be submitted within five (5) business days from notice of the Appeal.

The Title IX Coordinator will convene an Appeal Panel chosen from a pool of trained faculty and staff. The appeal will typically be completed within ten (10) business days.

In any request for an appeal, the burden of proof lies with the party requesting the Appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The Appeal is not a new review of the underlying matter.

In most cases, Appeals are confined to a review of the written documentation or record of the original investigation and determination, and relevant documentation regarding the grounds for Appeal. This is not an opportunity for the Appeal Panel to substitute its judgment

for that of the original reviewing body merely because of disagreement with the finding or sanctions. Appeals decisions are to be deferential to the original reviewing body, making changes to the finding only where there is clear error based on the stated appeal grounds.

- In the case of Deviation from University Policy or Procedure, the Appeal Panel must determine if there was a material deviation that may have affected the outcome and, if so, ask that a new investigation occur from the point that the procedural deviation took place.

- In the case of New Information that could materially affect the findings of the Decision-Making Panel, the Appeal Panel may affirm findings and determinations, or recommend that the case be returned to the Decision-Making Panel to assess the weight and effect of the new information and render a determination after considering the new facts.

- In the case of Bias or Conflict of Interest, the Appeal Panel must determine if there was a bias or conflict of interest that may have affected the outcome, and if so ask that a investigation or decision making panel occur from the point that the bias or conflict of interest may have had an affect on the outcome.

XIV. RETALIATION

No person or the University may retaliate against parties or witnesses under this policy. Retaliation is defined as acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in that protected activity. Protected activity includes an individual's good faith: (i) participation in the reporting, filing a complaint, testifying, assisting, participating or refusing to participate in an investigation, proceeding, hearing, or resolution of an alleged violation of this Policy; or (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy.

Retaliation may include intimidation, threats, coercion, discrimination, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Acts or attempts to retaliate or seek retribution against anyone involved in or connected to an allegation and/or resolution of sexual harassment or sexual misconduct. Counterclaims by a Respondent may be made in good faith, but counterclaims made with retaliatory intent will not be permitted.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Student Code of Conduct, handbooks, or other University policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sexual discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX may be retaliation. This does not include any violations investigated or adjudicated under a formal complaint.

Parties and witnesses alleging retaliation must file a formal complaint in accordance with this policy.

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

Additionally, charging an individual with a code of conduct, handbook or other University Policy violation for making materially false statements in bad faith in the course of the grievance process does not constitute retaliation. However, a determination of responsibility alone is not sufficient to conclude that a party made a materially false statement in bad faith.

XV. RECORD KEEPING

Commencing on August 14, 2020, the University of Scranton will maintain the following records for seven years:

- Each sexual harassment and sexual misconduct investigation including any determination regarding responsibility
- Any audio or audio-visual recording or transcript required by law
- Any disciplinary sanctions imposed on a Respondent
- Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity
- Any appeal and result therefrom
- Any resolution and the result therefrom
- All materials used to train Title IX Coordinators, advisors, investigators, decision makers, and any person who facilitates an Informal Process
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment or sexual misconduct, including, but not limited to:
    - Any record that documents the basis for the conclusion that the University's decision was not deliberately indifferent
    - Any record that documents that the University has taken measures designed to restore or preserve equal access to the University's education program or activity
    - Any record that documents the reasons why supportive measures were not provided and the reasons why.

APPENDIX A

Pennsylvania State Legal Definitions related to the University's Sexual Harassment and Sexual Misconduct policy:

3121. Rape

A A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:
(1) By forcible compulsion.
(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
(5) Who suffers from a mental disability which renders the complainant incapable of consent.

3123. Involuntary deviate sexual intercourse

A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:
(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(5) who suffers from a mental disability which renders him or her incapable of consent; or

3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

3125. Aggravated indecent assault

(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:
(1) the person does so without the complainant's consent;
(2) the person does so by forcible compulsion;
(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;
(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(6) the complainant suffers from a mental disability which renders him or her incapable of consent;
(7) the complainant is less than 13 years of age; or
(8) the complainant is less than 16 years of age and the person is four or more years older than the

complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

3126. Indecent assault
(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:
(1) the person does so without the complainant's consent;
(2) the person does so by forcible compulsion;
(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(6) the complainant suffers from a mental disability which renders the complainant incapable of consent;
(7) the complainant is less than 13 years of age; or
(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

3127. Indecent exposure
(a) Offense defined.--A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.

(b) Grading.--If the person knows or should have known that any of the persons present are less than 16 years of age, indecent exposure under subsection (a) is a misdemeanor of the first degree. Otherwise, indecent exposure under subsection (a) is a misdemeanor of the second degree.

3131. Unlawful dissemination of intimate image
(a) Offense defined.--Except as provided in sections 5903 (relating to obscene and other sexual materials and performances), 6312 (relating to sexual abuse of children) and 6321 (relating to transmission of sexually explicit images by minor), a person commits the offense of unlawful dissemination of intimate image if, with intent to harass, annoy or alarm a current or former sexual or intimate partner, the person disseminates a visual depiction of the current or former sexual or intimate partner in a state of nudity or engaged in sexual conduct.

2709.1. Stalking.
(a) Offense defined**.--**A person commits the crime of stalking when the person either:
(1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

APPENDIX B

Sanctioning and Remedy Guidelines

After a Respondent is found Responsible for a violation of the Sexual Harassment and Sexual Misconduct Policy, the Decision Making Panel will contact the Title IX Coordinator or designee, who will provide any additional information that the Decision Making Panel may need to determine appropriate sanctions and remedies, including but not limited to prior findings of responsibility, prior reports of misconduct, conduct records, previous attempts to redirect or educate the Respondent, and/or any impact and mitigation statements provided by the parties.

In determining appropriate sanctions, the Title IX Coordinator or designee may arrange for a meeting (phone, in person or virtually) between the Decision Making Panel members and the Vice President for Student Life (for Students) or the Vice President for Human Resources (for Faculty and Staff).

The Decision Making Panel is responsible for determining the proper sanctions. The sanctions should be designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the Catholic and Jesuit educational mission of the University and its Title IX obligations.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact or hard suffered by the parties
- The ongoing risk to either the Complainant or the community posed by the Respondent
- Any mitigating or aggravating circumstances
- Any other information deemed relevant by the Decision-maker(s)

The Decision Making Panel may impose any sanction or remedy deemed appropriate after consideration of all of the relevant information. Sanctions and/or remedies may be imposed individually or a combination of sanctions and/or remedies may be imposed.

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

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by entities beyond the University.

A. Student Sanctions

Sanction determinations for students A student found responsible for sexual harassment and/or misconduct will face a minimum sanction of disciplinary probation up to and including expulsion. The range of sanctions and sanctioning philosophy are detailed in the student sanctioning guidelines.

https://www.scranton.edu/studentlife/studentaffairs/student-conduct/documents/sanctioning-guidelines-2021-2022.pdf

Sanctions for students are typically broken into two parts – an administrative sanction, and a developmental sanction. Developmental sanctions may also include educational, remedial or corrective actions as warranted.

The following are common Administrative Sanctions that may be imposed upon students or student organizations in addition to disciplinary sanctions:

- Disciplinary Probation: Students may be placed on Disciplinary Probation for a stated period of time for moderate misconduct or in the case of repeated minor misconduct. A student who is on Disciplinary Probation is not in good disciplinary standing with the University for the time that they are on probation. Subsequent violations of the Student Code of Conduct during the period of probation may result in suspension or expulsion from the University.
- Deferred Suspension: Students may be placed on Deferred Suspension for a stated period of time for serious misconduct or in the case of repeated misconduct. A student who is on Deferred Suspension is not in good disciplinary standing with the University, and their tenure at the University is precarious. During the period of Deferred Suspension, the student must abide by all terms and conditions of University policies regarding student behavior and comply with any sanctions issued as a direct result of the student's misconduct. Students who are placed on Deferred Suspension may be issued developmental sanctions that may include restrictions or requirements such as counselling, the denial of the opportunity to participate in intercollegiate athletics or club sports, the denial of the opportunity to perform in the name of the University, the denial of the privilege of serving as an officer of s student organization or the denial of the privilege to reside in University housing. Any misconduct or non-compliance with sanctions and provisions on the student's part during the time of the Deferred Suspension will be reviewed and sanctioned solely by the Vice President for Student Life (or designee), who will strongly consider suspension or expulsion as the sanction for the misconduct. Students who are on Deferred Suspension will be afforded the opportunity to meet with the Vice President for Student Life (or designee) prior to the rendering of a final decision. Students who are on Deferred Suspension do not have the right to a formal hearing.
- Suspension: Suspension is imposed for serious misconduct or for a violation of Deferred Suspension when it is believed that the student should be temporarily removed from the University community. A student who is suspended from the University is not in good disciplinary standing with the University for the time that they

are suspended. Suspension may entail the imposition of conditions that the student must meet in order to resume studies at the University. Suspension also may include conditions that will be in place once the student resumes University studies. While suspended, the student loses all University rights and privileges, may not represent the University in any manner and may not visit the campus without prior approval of the Vice President for Student Life (or designee). Suspension may be for the remainder of a semester or for no more than four semesters. No more than three (3) credits of course work (if approved by the student's academic dean and the Registrar) taken at another institution during a period of suspension may be transferred to the University. Suspension is permanently recorded in the Office of Student Conduct. The student must meet with the Vice President for Student Life (or designee) following the term of suspension. The Vice President for Student Life (or designee) will determine whether the student may resume studies after considering whether all conditions of the suspension have been met. Any misconduct on the student's part during the period of suspension will be reviewed by the Vice President for Student Life (or designee) before the student is allowed to resume studies. The Vice President for Student Life (or designee) will strongly consider expulsion as a sanctions for misconduct that occurs during a period of suspension. Suspension is permanently recorded in the Office of Student Conduct.

- Expulsion: Expulsion is imposed for very serious misconduct, repetitive behavior, or for misconduct by a student who has previously been suspended when it is believed that a student should be permanently removed from the University community. An expelled student is not in good disciplinary standing with the University and is not eligible for readmission. Expulsion is permanently recorded in the Office of Student Conduct.
- Withholding of Degree: The University may withhold awarding a degree as a disciplinary sanction if the accused student is found responsible and is of senior class status. The degree may be withheld until the completion of the disciplinary process, including completion of all administrative and developmental sanctions imposed. A student of senior class status who is subject to a pending disciplinary proceeding is not eligible to receive a degree or participate in senior week activities, Baccalaureate Mass, and Commencement until the disciplinary process is completed. Depending on the nature of the charge(s), the student may be allowed to remain on campus to complete academic requirements for degree status at the discretion of the Title IX Coordinator (or designee). However, the student's degree will be conferred privately after the completion of the disciplinary process, including completion of all sanctions imposed.
- Revocation of Degree: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

The following are common developmental sanctions that may be imposed upon students or organizations singly or in combination:

- Educational Activity/Activities: Students may be required to perform activities that are designed to be educational. Examples of such activities include, but are not limited to, attending an educational class or workshop, giving or attending a presentation,

preparing and submitting a research project or paper on a designated topic, or offering a written reflection responding to a given prompt.

- Mandatory Counseling/Advising/Therapeutic Education: Students may be required to participate in counseling and/or advising sessions. Such sessions may include evaluative measures for substance abuse or emotional well-being.
- Restriction: A student's or student organization's privileges may be restricted. Such restrictions include, but are not limited to, denial of the right to represent the University in any way, denial of the use of or access to facilities, denial of parking privileges, denial of participation in extracurricular activities, denial of participation in intercollegiate athletics or club sports, or denial of participation in University-sponsored events.
- University Housing Transfer or Removal: Students may be directed to transfer to another room or housing unit, or may be removed from University housing altogether.
- Loss of Recognition: The University may withdraw recognition of a student organization, which includes denying it access to University resources for a period of time or permanently.
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

B. Employee Sanctions

Sanction determinations for employees. An employee found responsible for sexual harassment and/or misconduct will face appropriate disciplinary and responsive actions. Such actions may also include developmental, educational, remedial, or corrective actions as warranted. As with students, sanctions from this process may be combined with past disciplinary actions to result in a different outcome.

Sanctions for Sexual Harassment and Sexual Misconduct Violations may be imposed at any level of handbook discipline, as appropriate. An employee found responsible by the Decision Making panel may be subject to the following sanctions:

- Warning – verbal or written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required counseling
- Required training or education
- Probation
- Denial of pay increase/pay grade
- Loss of oversight or supervisory responsibility
- Restrict employee contact with specific individuals or access to areas
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay

- Termination[4]
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

C. Remedies for Students and Employees

- Administrative Directive for No-Contact between involved parties.
- Limiting an individual's access to certain facilities or activities.
- Providing referrals to counseling and health services.
- Referral to community-based service providers.
- Referral to the Employee Assistance Program.
- Providing education and advisories to the community.
- Altering the housing situation of the reporting or responding party.
- Offering adjustments to academic deadlines, course schedules, etc.
- Offering students Financial Aid Counseling.
- Providing academic support services, such as tutoring.
- Altering work arrangements for employees.
- Increasing security and monitoring of certain areas of the campus.
- *Other Remedies:* In addition to or in place of the above remedies, the University may assign any other remedies as deemed appropriate.

D. Long Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence. These remedies/actions may include, but are not limited to:

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the parties even if no policy violation is found.

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

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

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

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-making panel.

[4] If a Decision Making Panel's sanction for a faculty member is termination, the termination proceedings for faculty will proceed in accordance with Appendix III of the Faculty Handbook: Procedures Relating to Dismissal of Faculty Members after the grievance process and sanctions are decided.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a student's official transcript. Any sanction that involve a restriction for a time period is dependent on the successful completion of all other sanctions; if the Respondent has not completed all other assigned sanctions, they will not be reinstated until they have complied.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator. Sanctions will be overseen by the Office of Student Conduct, who will inform the Title IX Coordinator when sanctions are completed.

APPENDIX C

Faculty Right to Representation (Weingarten Rule)

All full-time faculty members at The University of Scranton have the opportunity to invoke the right to have a union officer present during any meeting or the grievance process in which there is a reasonable expectation that the meeting may result in discipline, termination, or a change in working conditions. Examples of such meetings or interviews are when a faculty member is named as a respondent as part of an investigation under The University of Scranton Sexual Harassment and Sexual Misconduct Policy or when the disciplinary procedure is invoked (Appendix III or XI of the Faculty Handbook). This right is based on the U.S. Supreme Court in the 1975 in NLRB v. J. Weingarten, Inc. case.

How should I inform my union representative(s) that I want them to represent me?
If you are asked to attend a meeting in which discipline is a reasonable outcome and you would like to have a Weingarten representative present, simply call or email a FAC officer (it does not have to be the chair of FAC).

What can the union representative do for me?
Please see the FAC website (scrantonfac.org) or contact a FAC officer for more information.

What if I don't want a union representative at first, but then change my mind?
Full time faculty members have the right to request union representation at any stage of the investigatory process. To invoke Weingarten rights, the faculty member should simply say: "If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative (officer), be present at this meeting.
Until my representative arrives, I choose not to participate in this discussion."

What if I want a union representative at first, but then change my mind?
If a full time faculty member requests that a union representative be present during an investigatory interview, but later refuses representation, the union representative must leave.

What if I request union representation and the administration refuses?
Once Weingarten rights are invoked, the employer may not refuse to allow the union representative to be present. If this occurs, the full time faculty member has the right to remain silent and should contact a union officer.

Can I suffer any harm by asking for union representation?
No. It is unlawful for an employer to discipline an employee for requesting a Weingarten representative.

APPENDIX D

ROLES AND PROCESS

Generally:

The University relies on members of the community to assist in providing a fair and equitable process. There are four main roles for which faculty and staff may volunteer to participate: Advisor, Investigator, Informal Process Facilitator, and Decision Making Panelist. The Office of Equity and Diversity ("OED") provides all faculty and staff with training opportunities for these roles. Faculty and staff may be trained in more than one role, although a person will not perform more than one of the roles in the same matter.

OED recognizes that these roles are in addition to a faculty and staff member's full-time duties. OED will be as candid as possible about the time commitment, or complexity of each matter, before they assign a matter to a volunteer. It is the responsibility of the volunteer to honestly asses the time frame, time period, or workload identified, and inform the Title IX Coordinator if they are not able to meet the time commitment necessary. The volunteer must also inform OED if there is a potential conflict of interest or if they have a bias that may disqualify them from participating in a role. Such notice should be timely enough to enable another volunteer to be found for that role.

It is the volunteer's responsibility to contact their supervisor and ensure them that they are aware of the additional time commitment. The volunteers who assist with this process perform a vital duty both for the community and for the compliance obligations of the University. If a volunteer believes that it would be helpful for the Title IX Coordinator to explain the role to their supervisor, they should contact the Title IX Coordinator about assistance in speaking to their supervisor.

The Title IX Coordinator may preemptively inform and remove a volunteer from certain roles that could be perceived as a conflict of interest.

If a volunteer believes they are being retaliated against by the supervisor for participating in the Sexual Harassment and Sexual Misconduct Process, or if they believe they are being retaliated against for the time used to participate in the process, they should contact the Title IX Coordinator.

Training:

All Volunteers

All volunteers are expected to attend training, which includes:

- The University process
- Definitions, including but not limited to:
  - Title IX Sexual Harassment
  - University Sexual Misconduct
  - Scope of the University's education program or activity
  - Consent

- How to serve impartially, and without biases or stereotypes (including implicit bias) or conflicts of interest
- Reporting, confidentiality, and privacy requirements
- Dynamics of Sexual Harassment, including Sexual Assault, Dating and Domestic Violence, and Stalking
- Relevance, including Rape Shield Protections
- Awareness of the impact of language
- The dynamics of disclosure, delayed reporting and recantation
- Presumption of non-responsibility
- Disparate treatment and impact
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to use any technology during a Decision-Making Hearing
- Burden of proof is on the University, not the parties
- Providing an equal opportunity for the parties to present and cross examine witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
- Prohibition of drawing inferences from a party or witnesses that refuses to submit to cross examination.
- Clear and convincing standard of evidence

ROLES:

ADVISOR

The Complainant and Respondent are allowed to select an Advisor of their choosing during the process. During the investigative process and informal processes, the parties are not required to have an Advisor. If they choose to have an Advisor, the Advisor serves in an advisory role, and is not allowed to speak for the party or interrupt the proceedings. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the grievance process.

During the Hearing Panel, the Advisor is responsible for conducting cross-examination. Depending on their assigned party's decisions, the Advisor may represent the party in their absence at a Panel Hearing as further articulated in the Policy.

Duties that Advisors may be asked to perform:

- Provide support during the pre-investigative and investigative process
- Provide information and discussion regarding decisions that their assigned party must make during the Formal and Informal Processes.
- Assist the party in determining if they want to participate in the Informal Process and what information they may disclose, or what they are willing to agree to in support of a resolution

Conduct and manage cross-examination

- Review of the investigative report and evidence

- Assist with identification of additional witnesses or evidence that their party believes are relevant
- Conduct cross examination of the opposing party(s) and the witnesses

Advisors are expected to abide by the Code of Decorum, found in Appendix (E). Advisors who do not abide by the code of decorum, may be asked to meet with the Title IX Coordinator, the Hearing Panel Chair, and/or be removed from any process, including the Decision-Making Hearing.

HEARING PANEL MEMBERS AND CHAIRS

The Hearing Panel Members and Chair are responsible for managing the Decision-Making Hearing, producing the report, and determining sanctions. During the Hearing, the Panel Members and Chair are responsible for:

- Ensuring that Advisors conduct themselves in accordance with the Code of Decorum and the policy.
- Being familiar with, and capable of assisting with the technology used during the panel.
- Making determination on the relevancy and suitability of questions, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- Applying policy rules to real time decision making.
- Recording the Decision-Making Hearing.
- Recordkeeping.

After the Hearing, the Panel will render a finding of Responsible or Not Responsible, based on the clear and convincing standard of evidence. Deliberations will be done after the Hearing has concluded, and will not be recorded. If the Hearing Panel finds a Respondent responsible for violating the policy, they will determine sanctions in accordance with the guidelines offered in this policy and associated references. In support of those decisions, the Panel will provide a written Hearing Panel Report.

The written Hearing Panel Report will include:

- Identification of the allegations
- Procedural steps taken from the receipt of the formal complaint through the determination of responsibility (including notification to the parties)
- Interviews of the parties and witnesses
- Site visits
- How evidence was gathered
- How the Decision-Making Hearing was held.
- Findings of fact supporting the determination
- Conclusions regarding the application of the University's Code of Conduct to the facts
- A determination (A statement of, and rationale for), regarding responsibility for each allegation, including a determination regarding responsibility, including the decision-makers' rationale for the result.
- Any disciplinary sanctions the University imposes on the respondent,

- Whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
- Whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the complainant
- The University's procedures and permissible bases for the complainant and respondent to appeal

INFORMAL PROCESS FACILITATOR

The Informal Process Facilitator is charged with running an unbiased and equitable process by which the Respondent and Complainant may choose to resolve policy violation with a mediated Resolution agreement. The Facilitator is expected to work with both parties to create an agreement that includes the appropriate sanction or responsive actions that are meant to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community, if appropriate and voluntary.

Because the Informal Process is entirely voluntary, the facilitator will never be asked to facilitate an agreement between unwilling parties. It is part of the Facilitator's duties to ensure that all parties feel like they are free from coercion during the process. If either party state that they no longer wish to participate in the Informal Process, or if the Facilitator does not believe they can reach an accord in good faith without coercion, they should inform the Title IX Coordinator, who will inform the parties of their options.

The facilitator may need to respond to highly emotionally charged situations. While the facilitator will primarily meet with parties in the Office of Equity and Diversity, they work more independently than any of the other volunteer roles.

If the Facilitator is able to reach a Resolution Agreement with the parties, they will prepare a draft version for the title IX Coordinator to review, and ensure that all potential violations are resolved. If any issues are raised, they will work with the parties to determine if the draft should be modified.

More information about this role can be found in Appendix (F), on the Informal Process.

INVESTIGATOR

The Investigator will be provided with a copy of the Notice of Allegations and Investigation, which will outline the details of the potential policy violations, and any additional information that the Title IX Coordinator collected during their assessment, if the Title IX Coordinator is not the investigator. The Investigator is expected to provide a fair, objective, and reliable gathering of the facts. The Investigator will be thorough, impartial and fair, without conflict of interest or bias, and all individuals will be treated with appropriate sensitivity and respect.

The Investigator must meet with each party willing to meet with them, any relevant witnesses, and collect any evidence the parties or witnesses retain. The Investigator will work closely with the Title IX Coordinator, to ensure that Notice is updated as appropriate, and that any additional information that may be needed for determination of appropriate supportive measure is shared. If the Investigator identifies additional witnesses, evidence or policy

violations, they should pursue those contributions, and inform the Title IX Coordinator if they need additional authority, or if they need material that is not normally accessible to them.

At a minimum, the Investigator is expected to:

•Interview Complainant, Respondent and any and all witnesses
•Collect all evidence
•Obtain necessary additional evidence
•Draft an investigation report

In addition to the training for all volunteers, investigators will also receive training on the following:

- The skills necessary to gather the evidence for a fair and unbiased investigation
- The ability to create an investigative report that fairly summarizes all the relevant evidence
- How to handle evidence collected related to a medical record or other communication that may be confidential based on the regulations

More information about this role and the investigator report can be found in the Sexual Harassment and Sexual Misconduct Policy, Section (G): Formal Grievance Process Including Investigation and Decision Making Hearing.

APPENDIX E

ADVISORS CODE OF DECORUM

Generally:

Advisors play a vital role in the University's grievance process under the Sexual Harassment and Sexual Misconduct policy, while also remaining members of the University community. As such, Advisors are asked to treat everyone in this process with respect, dignity, and consideration.

Assigning an Advisor:

For Advisors provided by the University, the Office of Equity and Diversity will conduct a conflict of interest check. The conflict check may consist of the following:

- Providing the Advisor with the name of the parties and potential witnesses.
- Determining whether the Advisor teaches, supervises, or has direct contact with any of the parties or potential witnesses that may unduly influence them.
- Asking whether the Advisor believes they can advise the Complainant or Respondent without bias after hearing a summary of the allegations.

Advisors will be asked to sign a form acknowledging their ability to advise a Complainant or Respondent without bias or conflict prior to the assignment.

The Complainant or Respondent will be provided with the name and department of the Advisor selected to advise them during the course of the Decision-Making Hearing. The Complainant or Respondent who is assigned the Advisor has three (3) business days from the date of the assignment to object to the Advisor because of a conflict of interest or potential bias. If a Complainant or Respondent or Advisor does not object to the assignment within three (3) business days, the Advisor is deemed accepted and any conflict waived.

Non-University Assigned Advisor:

Complainants and Respondents are permitted to select their own Advisor throughout the process, including the opportunity to hire an attorney. Advisors who are not assigned by the University are not subject to the conflict of interest check; however, they are subject to the remainder of the Code of Decorum. Complainants and Respondents may elect to change Advisors during the process and are not obligated to use the same Advisor throughout; however, the Title IX Coordinator or designee will not assign a different University-assigned Advisor unless the Complainant or Respondent can show bias. The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that, if a party changes their Advisor, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

Scheduling Advisor Meetings:

An Advisor is expected to adjust their schedule to attend meetings as necessary for the Sexual Harassment and Sexual Misconduct grievance process. OED will work with the

Advisor to accommodate their inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Any Advisor who does not comply with their role as defined by this policy or in the Code of Decorum will receive one warning. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role or the Code of Decorum, the Title IX Coordinator or Deputy Title IX Coordinator, or the Decision-Making Chair during a Decision-Making Hearing (in consultation with the Title IX Coordinator or the Deputy Title IX Coordinator), will end the meeting/hearing, and/or implement other appropriate measures, including but not limited to:

- Removing the Advisor from the meeting/hearing.
- Asking the party to select another Advisor.
- Assigning another Advisor, and/or
- Prohibiting the non-compliant Advisor from participating as an Advisor in future proceeding unless the Advisor agrees to receive training and agrees in writing to abide by the Policy and Code of Decorum.

Interview/Mediation/Meetings

- All Advisors are subject to the University policies, procedures, and code of decorum, including attorneys.
- Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University Title IX and Deputy Title IX Coordinators or investigators in a meeting or during investigation interviews unless invited to do so (e.g., asking procedural questions). At the Decision-Making Hearing, the Advisor is required to cross-examine the opposing party and all witnesses, and address questions to the Decision-Making panel.
- The Advisor may not make a presentation, argument, or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee during meetings with the Title IX Coordinator, their designee, or the Investigator.
- During the investigation phase of the process, although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any non-hearing process meeting or interview. Any breaks or time to confer can be requested by the party, not the Advisor. At the request of a party, meetings or interviews can be ended and rescheduled to allow for more in-depth consultation, or to allow the party to retain a different Advisor.
- The need to consult an Advisor or retain a new Advisor cannot be used in an effort to intentionally prolong the investigation.
- During the Investigative phase, it is the responsibility of the Party to ascertain the availability of their Advisor, and to provide that information to the Investigator.

Hearing

- The Decision-Making Panel Chair, in consultation with the Decision-Making Panel, will admonish any questioner who uses the questioning opportunity to intimidate or abuse a party or witness.
- The Decision-Maker or Chair will control any party, Advisor, or representative who exceeds the scope of their role or the bounds of propriety/civility appropriate to the decorum of a formal hearing.
- The Advisor must question all other opposing parties and witnesses.
- All questions should be posed verbally, subject to interjection by the decision-maker or Chair;
    - All relevant questions should be permitted, unless they are:
        - Abusive and/or bullying
        - Irrelevant
        - Confusing
        - Unduly repetitive
        - Prohibited by established procedural rules
        - Related to sexual predisposition or prior sexual behavior, unless specifically offered to prove that someone other than the Respondent committed the alleged act, or to show that specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.
- The Advisor should allow time for the decision-maker or Chair to vet all questions, and when necessary:
    - Direct the witness/party not to answer the question as posed, and explain why; or
    - Ask the questioner to rephrase or reframe the question based on the articulated concerns of the decision-maker or Chair; or
    - Ask to rephrase or reframe the question on the questioners behalf if necessary
- The Decision-Maker or Chair is charged with the responsibility to determine admissibility of relevant evidence and controls all evidence; all evidence should be shown to the Chair prior to being provided to a witness. Any evidence that has been introduced with one witness may be used with another witness.

APPENDIX F

INFORMAL PROCESS

The Informal Process is intended to provide an alternative to the Decision Making Hearing process, while also allowing for all parties to communicate their needs regarding a resolution to the matter. Therefore, the Informal Process can only move forward if both the Complainant and Respondent want to participate. If either party does not want to participate in the Informal Process, the Title IX Coordinator will not assign the matter to a Facilitator.

When an Informal Process successfully results in a Resolution Agreement, the appropriate sanction or responsive actions are meant to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

To ensure the neutrality of the facilitator and to encourage Complainants and Respondents to feel comfortable sharing information with the facilitator to achieve a resolution, facilitators cannot be called as witnesses if the informal process is not successful, and the matter reverts or proceeds to a formal process.

CONSIDERATIONS WHEN ENTERING THE INFORMAL PROCESS

1. SUITABILITY

The ultimate determination of whether the Informal Process is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator may look to the following factors to assess whether facilitation is appropriate:

- The parties' amenability to facilitation;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Level of violence or on-going risk;
- Disciplinary history;
- Whether an emergency removal is needed;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Skill of the facilitator with this type of allegation;
- Adequate resources to invest in facilitation (time, staff, etc.).

Situations involving dangerous patterns or significant on-going threat to the community will not be resolved by facilitation. The determination of whether to permit a facilitated resolution is entirely at the discretion of the Title IX Coordinator and in line with the requirements as stated in the Title IX regulations. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by the Informal Process are not appealable.

2. PRIVACY

Informal resolution proceedings are private. Privacy is not confidentiality. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the University's policy.

The parties have the discretion to share their own knowledge and experiences with others if they so choose, although there is an expectation of privacy around what is shared during facilitation. The only exception is when a Resolution Agreement includes a nondisclosure or non-disparagement clause.

3. ADVISORS

Parties are allowed to confer with their Advisors during the Informal Process, if they desire. Parties are expected to speak and communicate on their own behalf during the Informal Process. The role of the Advisor is to support, rather than advocate, during this process. The University encourages parties to discuss any sharing of any information or evidence with their Advisors before the Informal Process.

During the Informal Process, the Facilitator will primarily consult directly with the Complainant or Respondent. It is the responsibility of the Complainant or Respondent to ensure their Advisors have all the information they feel it is necessary to share with them.

4. SEVERABILITY

If a matter involves multiple Complainants or Respondents, the parties that are moving towards Informal Process will be severed from the other matters, pending the outcome of the Informal Process. If the matter is not resolved through the Informal Process, and returns to the Formal Process, the matter may be investigated or heard separately or jointly, as the Title IX Coordinator deems appropriate under the SHSM Policy. If the matter is resolved, the Facilitator will consult with the Title IX Coordinator to ensure that the Respondent is advised as to how their agreement will be used in relation to other matters prior to signing a Resolution Agreement.

5. TOLLING

Given that the parties are allowed to attempt an Informal Resolution without giving up their access to the Formal Process, the timeline to complete an investigation is tolled while the parties and the Facilitator are making a good-faith effort to engage in the Informal Process. The Informal Process is expected to be resolved within 30 days of assignment to a Facilitator. If the Facilitator requires additional time, and in good faith believes they are close to a resolution, they may request an extension from the Title IX Coordinator.

If the Informal Process does not result in a Resolution Agreement, and the matter returns to the Formal Process, the time will be logged as part of the Informal Process.

With the Consent of both parties, an investigation under the formal process may continued while the Informal Resolution is taking please, but the Decisions Making Hearing will be placed on hold.

THE INFORMAL PROCESS

PRIOR TO THE INFORMAL PROCESS

1. Process is opt-in only

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined by policy. A Complainant or Respondent who wishes to initiate the Informal Resolution must contact the Title IX Coordinator.

When one party informs the Title IX Coordinator that they would like to resolve an open matter through the Informal Process, the Title IX Coordinator will meet with the opposing party to provide them with information about the Informal Process. If either party does not want to participate, the matter will continue through the Formal Resolution Process.

2. Conflict Check

If both parties agree to participate in the process, the Title IX Coordinator will appoint a Facilitator from a pool of trained faculty and staff. They will provide the Facilitator with the names of both parties, and a copy of the Notice that indicates the potential violations to be resolved.

The Title IX Coordinator will check with the Facilitator to ensure that neither party presents a potential conflict of interest (i.e., a current student in their class, supervising one of them as a work study, personal relationship with either). The Title IX Coordinator will confirm with the Facilitator that they understand the Notice.

If both parties consent, the Title IX Coordinator or Deputy Title IX Coordinator may act as a Facilitator.

3. Assignment

Once the Title IX Coordinator names a Facilitator and completes a conflict check, the Title IX Coordinator will notify both parties of the name of the Facilitator, and their contact information. The Title IX Coordinator will provide the Facilitator with the information that has been collected at the time when the matter was assigned. While the Facilitator should reach out to the parties to confirm their appointment, the Facilitator may take up to five (5) calendar days to review the materials prior to scheduling meetings with the parties.

ENGAGING IN THE INFORMAL PROCESS

1. Initial Contact with the Parties

After reviewing the case file, the Facilitator will contact each party to schedule a meeting. This meeting is intended to allow the Facilitator to inform each party about the process and expectations. This includes an initial conversation about their experience and objectives in the Informal Process.

2. Facilitated Resolution

The University requires that meetings related to the Informal Process be conducted in the Office of Equity and Diversity, rather than the Facilitator's personal office or other common spaces, to preserve the privacy of parties engaged in the process. In the event that a Facilitator believes that an exception is warranted, the Facilitator must consult with the Title IX Coordinator to make those arrangements.

During individual meetings with the parties, the Facilitator should focus on resolving the matter through a negotiated agreement that will provide the Complainant, Respondent, and the greater University Community with a safe educational environment. In these meetings, the Facilitator should seek to work with both parties to ascertain specific remedies and/or sanctions that will preserve their access to educational opportunities, and will address the underlying matter.

Although parties may attempt to endorse and communicate ultimatums, these ultimatums generally may not necessarily be included as part of the outcome. The facilitator has a role in listening to, but not necessarily supporting, the ultimatum that does not likely address the underlying issues. Addressing the underlying issues is a fundamental goal and desired outcome of a facilitated process. For instance, an ultimatum that a student never play on a sports team may not be appropriate as a sanction if it is only intended to take away an educational activity that the student enjoys and is unrelated to the underlying behavior.

The University strongly recommends that facilitated resolution does not occur face-to-face except when a condition of the resolution agreement requires direct interaction. For example, when an in-person apology is required as part of the Resolution Agreement. If the Facilitator believes that a face-to-face resolution is beneficial to the process, they must consult the Title IX Coordinator to make those arrangements, rather than initiate it themselves or with the assistance of their Advisor or the Facilitator.

3. Resolution Agreement

At a minimum, a Resolution Agreement must contain the names of the Complainant, Respondent, the policy violations that it is intended to resolve, and the agreed upon terms, with a timeline for those actions.

The Resolution Agreement is enforceable by the University, including any agreements of mutual release, non-disparagement, and/or non-disclosure. Although a Resolution Agreement may potentially contain a non-disclosure agreement, such agreements must be approved by the Title IX Coordinator. The Title IX Coordinator will specifically review such agreements to ensure that parties do not feel coerced to agree to that clause.

As part of the Resolution Agreement, the Respondent can agree to sanctions such as withdrawal, self-suspend (take a leave of absence), and/or other restrictions/ transfers/online course options, to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. The Informal Process can also result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties that are enforceable by the University. If the Facilitator has questions and/or concerns about the suitability or feasibility of specific measures, they should consult with the Title IX Coordinator.

The willingness to provide an apology or admission on behalf of either party needs to be vetted carefully in advance by the Facilitator before determining an incident is amenable/appropriate as a resolution. An apology or admission by the Respondent is not a prerequisite for a Resolution Agreement. If the Respondent elects to accept some form of responsibility for the harm or hurt caused, in direct communication with the Complainant, the Facilitator should be prepared to manage the emotional and behavioral impact of any statements made by both the Respondent and the Complainant. For example, parties may

become emotional or exhibit stress. This step may occur after a Resolution Agreement is approved and signed by all relevant parties.

A Resolution Agreement may not require the same level of accountability for all potential violations. A Resolution Agreement must, however, address all potential violations or the Title IX Coordinator will not accept it as a resolution. For example, sanctions and remedies may be drafted to address all behaviors contained in the notice, but a Respondent may only apologize for one violation.

Once the draft Resolution Agreement is identified by the Facilitator, they will provide it to the Title IX Coordinator to review. Within three (3) business days, the Title IX Coordinator will either accept the draft or provide a list of unresolved issues to the Facilitator. The Facilitator will provide an amended Draft Resolution Agreement and/or a memo to reflect how they considered and resolved these unresolved issues.

After the Title IX Coordinator approves the Draft Resolution Agreement, the Facilitator will have each party sign the document. The Facilitator is responsible for making any face-to-face meetings or other formal gestures between the parties. Once those initial measures are completed, the Facilitator will return the Resolution Agreement to the Title IX Coordinator. When the Title IX Coordinator receives the signed Resolution Agreement, they will contact both parties and provide the status of the any ongoing sanctions or term agreements.

Once all parties have signed the Resolution Agreement, this outcome is not subject to appeal.

4. Ability to Return to Formal Process

At any point during the process, prior to signing a Resolution Agreement, either party may inform the Facilitator that they wish to return to the Formal Process. At that time, the Facilitator will inform the Title IX Coordinator that the parties are returning to the Formal Process, and the Title IX Coordinator will inform the parties of next steps.

If, during the process, the Facilitator has concerns about the suitability of the Informal Process for resolving the matter, they should consult with the Title IX Coordinator. If they believe that they cannot reach an Agreement between the parties, they should inform the Title IX Coordinator, who will then inform the parties of their options at that point.

Any evidence or admissions provided during the Informal Process is not automatically provided to the Investigator, and must either be provided directly from that party to the Investigator, or must be discovered through other means.

5. Enforcement

If an Informal Resolution results in a Resolution Agreement, the Title IX Coordinator will maintain records of the Resolution Agreements. Where necessary, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the University's Sexual Harassment and Sexual Misconduct Policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary. If a party believes that a violation of the agreement has occurred, they should contact the Title IX Coordinator. Any violations or noncompliance with the Resolution Agreement found to have occurred could be subject to further disciplinary action.