

**MADONNA UNIVERSITY'S POLICY  
ON SEXUAL AND GENDER-BASED MISCONDUCT**

**Effective August 14, 2020**

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**On Sexual and Gender-Based Misconduct**  
**Table of Contents**

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I.	POLICY STATEMENT .....	1
II.	POLICY DEFINITIONS .....	2
III.	POLICY SCOPE AND APPLICABILITY .....	4
IV.	APPLICABLE PROCEDURES UNDER THIS POLICY .....	4
V.	CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES .....	5
	A. Confidential Resources .....	5
	B. Non-Confidential Resources .....	6
VI.	REPORTING .....	6
	A. Reporting to the University .....	7
	B. Receipt by the University of Reports of Prohibited Conduct .....	7
	C. Additional Information about Reporting .....	8
VII.	INDIVIDUALS WITH REPORTING OBLIGATIONS .....	8
VIII.	FORMAL COMPLAINTS .....	10
IX.	SUPPORTIVE MEASURES .....	11
X.	EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE .....	12
XI.	PROHIBITED CONDUCT .....	13
	A. Sexual and Gender-Based Misconduct .....	13
XII.	INVESTIGATION AND RESOLUTION PROCESSES WHEN THE RESPONDENT IS A STUDENT .....	17
	A. Investigation .....	17

B. Informal Resolution .....	18
C. Resolution Hearing .....	19
D. Appeals .....	21
XIII. INVESTIGATION AND RESOLUTION PROCESSES WHEN THE RESPONDENT IS NOT A STUDENT .....	23

## I. POLICY STATEMENT

Madonna University (the “University”), is committed to creating and maintaining a safe and non-discriminatory campus community that is free from Sexual and Gender-Based Misconduct<sup>1</sup> and that enables individuals engaged in its Programs or Activities (as defined in Section II below) to participate fully in the scholarly, research, educational, patient care, and service missions of the University. The University does not discriminate on the basis of sex or gender in any of its Programs and Activities.

The University’s *Policy on Sexual and Gender-Based Misconduct* (“Policy”) prohibits the following types of conduct as defined in Section XI below (also referred to collectively as “Prohibited Conduct”):

**Sexual and Gender-Based Misconduct** (i.e., Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation and Violation of Supportive Measures); and

**Title IX Misconduct** (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX).

The University must define and respond to Title IX Misconduct as required by regulations issued in May 2020 by the U.S. Department of Education to implement Title IX of the Education Amendments of 1972, codified at 34 C.F.R. Part 106 (the “Title IX Regulations”). The Title IX Regulations allow the University to define and regulate Prohibited Conduct that falls outside the definition of Title IX Misconduct, but which the University is committed to addressing as a matter of University policy and/or as required by other applicable law. Accordingly, the University’s Policy prohibiting Sexual and Gender-Based Misconduct and Title IX Misconduct is consistent with the Title IX Regulations, as well as the University’s mission and commitment to ensuring a safe and non-discriminatory campus community.

Prohibited Conduct undermines the character and purpose of the University and the University will take appropriate prompt and effective action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. Prohibited Conduct may also constitute crimes that violate federal and state law.

The University adopts this Policy with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering an environment where all individuals are well-informed and supported in reporting Prohibited Conduct; (3) providing a fair and impartial process for all parties; and (4) identifying the procedures by which violations of this Policy will be evaluated. Employees, Students, or Third Parties (as defined in Section II below) who violate this Policy may face, as appropriate, disciplinary action up to and including termination, expulsion, or other actions.

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<sup>1</sup> Terms defined in Section II below are capitalized throughout the Policy.

It is the responsibility of every member of the University Community to foster an environment free of Prohibited Conduct. All members of the University Community are encouraged to take reasonable and prudent actions to prevent or stop such behavior.

This Policy sets forth how the University will proceed once it is made aware of possible Prohibited Conduct. The Policy is in keeping with our institutional values and is intended to meet our obligations under Title VII of the Civil Rights Act of 1964 (“Title VII”); Title IX of the Education Amendments of 1972 (“Title IX”) and regulations promulgated thereunder in 2020; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), with respect to its application to Prohibited Conduct; and other applicable law and regulations.

## **II. POLICY DEFINITIONS**

For purposes of this Policy, some key terms are defined below. Additional terms are defined within the text of the Policy.

- A. Complainant:** “Complainant” is used to refer to a Student, Employee, or Third Party who is reported to have experienced Prohibited Conduct and who participates in a process undertaken by the University to address the report of Prohibited Conduct. In some instances, the person who is reported to have experienced Prohibited Conduct may not wish to participate in the process. In those cases, the University may pursue a resolution process under this Policy without a participating Complainant. For ease of reference, “Complainant” will also be used throughout this Policy and related procedures to refer generally to an individual who is reported to have experienced Prohibited Conduct, even if they do not participate in any related process.
- B. Confidential Resources:** “Confidential Resources” are available to provide individuals with assistance, support, and additional information and are prohibited from disclosing confidential information unless: (1) given permission by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order. Confidential Resources may be required to report non-identifying information for crime reporting purposes.
- C. Madonna University Department of Public Safety:** Madonna University Department of Public Safety or “Public Safety” refers to Madonna’s on-campus public safety, including third parties acting as such pursuant to a contract with the University.
- D. Employee:** “Employee” means all faculty (i.e., regular instructional, adjunct, and visiting faculty), librarians, graduate student instructors, human resource personnel, admissions personnel, and all regular and temporary staff.

- E. Formal Complaint:** “Formal Complaint” means a document signed by a Complainant or by the Title IX Coordinator alleging that a Respondent engaged in Prohibited Conduct and requesting initiation of the University’s resolution processes.
- F. Reporting Obligations:** Members of the University community who believe that a Title IX violation may have occurred, should report their concerns to and/or file a report with the Title IX Coordinator.
- G. Education Program or Activity:** This Policy applies to Prohibited Conduct in any University Program or Activity. A University “Program or Activity” includes: (1) any location, event, or circumstance where the University exercises substantial control over both the Respondent and the context in which the conduct occurs; (2) any building owned or controlled by a student organization recognized by the University; and (3) on the University campus. Conduct that occurs off campus in locations or at events with no connection to the University is unlikely to occur in a Program or Activity of the University.
- H. Prohibited Conduct:** “Prohibited Conduct” refers to Sexual and Gender-Based Misconduct (Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation and Violation of Supportive Measures) and Title IX Misconduct (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault, and Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX). For a definition of each type of Prohibited Conduct, please see below.
- I. Protected Activity:** “Protected Activity” includes most elements of participation in the University’s processes related to this Policy, including but not limited to reporting Prohibited Conduct; pursuing a resolution of Prohibited Conduct; providing evidence in any investigation or hearing; or intervening to protect others who may have experienced Prohibited Conduct. Retaliation against any person because of Protected Activity is prohibited under this Policy, as discussed in Section XI (B)(8).
- J. Reasonable Person:** “Reasonable Person” means a person using average care, intelligence, and judgment in the known circumstances.
- K. Respondent:** “Respondent” is an individual who is reported to have engaged in conduct that could constitute Prohibited Conduct.
- L. Student:** “Student” generally means an individual who was selected “for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at a Program or Activity operated by the University.” An individual is a Student from the time they first register for classes

or attend on-campus Student orientation until degree conferral, or they are otherwise ineligible to register for courses without seeking readmission. For purposes of Title IX Misconduct as defined in Section XI (C)(1) below, “Student” also means an individual who, for the purpose of obtaining education, is participating in a University Program or Activity.

- M. Supportive Measures:** “Supportive Measures” are individualized services, accommodations, and other assistance that the University offers and may put in place, without fee or charge. Supportive Measures are designed to restore or preserve equal access to the University’s Programs and Activities, protect the safety of all parties and the University’s educational environment, and/or deter Prohibited Conduct, without being punitive or disciplinary in nature or unreasonably burdening the other party.
- N. Third Party:** “Third Party” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.
- O. University Community:** “University Community” refers to University Students and Employees.

### **III. POLICY SCOPE AND APPLICABILITY**

This Policy applies to Students, Employees, and to the extent noted below, Third Parties, including Patients. This Policy covers two general types of Prohibited Conduct: Sexual and Gender-Based Misconduct and Title IX Misconduct.

This Policy covers acts of Sexual and Gender-Based Misconduct (as defined in Section XI (B) below) committed by or against Students, Employees, and Third Parties when the Prohibited Conduct occurs as part of the Education Program or Activity as defined above.

This Policy supersedes any conflicting information in any other University policies, including in handbooks, with respect to the definitions or procedures relating to Prohibited Conduct.

### **IV. APPLICABLE PROCEDURES UNDER THIS POLICY**

The specific procedures for assessing, reviewing and resolving Prohibited Conduct depend upon the nature of the Respondent’s relationship to the University, and when a Respondent is an Employee or a Third Party, on the type of Prohibited Conduct at issue.

The Respondent is a Student:

If the Respondent is a Student and the alleged conduct would constitute either Sexual and Gender-Based Misconduct or Title IX Misconduct, the University will work with the Title IX Coordinator and the appropriate Student Affairs officer, if necessary.

The Respondent is an Employee:

If the Respondent is an Employee, the University will work with the Title IX Coordinator and the Department of Human Resources.

The Respondent is *both* a Student and an Employee:

The Title IX Coordinator will determine whether Student or Employee Procedures apply based upon the facts and circumstances, and whether those circumstances relate more closely to the Respondent's status as a Student or an Employee.

The Respondent is a Third Party:

The University's ability to take appropriate corrective action against a Third Party will be determined by the nature of the Third Party's relationship to the University. Complaints against Third Parties are addressed through the Title IX Coordinator and either Department of Human Resources, Public Safety or Student Affairs, as determined by the Title IX Coordinator.

When the University receives a report of behavior that could violate this Policy as well as other University policies, the University will determine which policy/ies and procedures apply and whether action will be taken under this Policy exclusively, or under multiple policies and/or procedures of the University. In the event that at the time of a report or the conclusion of an investigation it becomes apparent that the alleged conduct, if true, would not constitute Prohibited Conduct, the matter may be adjudicated under another applicable policy or procedure of the University.

## **V. CONFIDENTIAL AND NON-CONFIDENTIAL RESOURCES**

Supportive resources are available at the University. Some of these resources are designated as confidential. Other resources provide support but may need to involve Public Safety, the local police department or other third parties. Regardless of whether the University determines that Prohibited Conduct occurred, the University will offer resources or assistance to Complainants, Respondents, witnesses, and other affected University Community members after receiving notice of alleged Prohibited Conduct. The University will also assist those individuals in identifying and contacting external law enforcement agencies and community resources.

### **A. Confidential Resources**

Confidential Resources are available to provide individuals with assistance, support, and additional information and are prohibited from disclosing confidential information unless: (1) given permission by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order. Confidential Resources may be

required to report non-identifying information to Public Safety for crime reporting purposes.

- [For Students:  
Madonna University Counseling Resources  
734-432-5639](#)
- [For Students and Faculty/Staff  
Haven - 24-HR CRISIS & SUPPORT  
248-334-1274](#)

## **B. Non-Confidential Resources**

Non-Confidential Resources are available to provide individuals with assistance, support, and additional information, but who are not designated as confidential and may have broader obligations to report information that is shared with them. Non-Confidential Resources will make reasonable efforts to respect and safeguard the privacy of the individuals involved. Privacy means that concerns about Prohibited Conduct will only be shared with University representatives, such as the Title IX Coordinator, responsible for assessment, investigation, or resolution of the report or otherwise properly responding to issues raised; to Public Safety for crime statistics reporting; and to the extent required by law or court order.

- [Madonna University Public Safety  
734-432-5442](#)
- [Wayne County Prosecutor – Sex Crimes  
Kellie Gleason  
Chief, Special Victims Unit – 313-224-5809](#)
- [Livonia Police Department  
\(734\) 466-2470](#)

## **VI. REPORTING**

The University strongly encourages any individual to make a report of suspected Prohibited Conduct directly to the Title IX Coordinator or Public Safety.

Recognizing that some forms of Prohibited Conduct may also constitute crimes, the University also strongly encourages any individual who experiences, witnesses, or learns of possible criminal conduct to report to Public Safety or local law enforcement. Prompt reporting allows law enforcement to collect and preserve evidence.

Set forth below is information regarding how to make a report of any form of Prohibited Conduct to the University, how to file a Formal Complaint, and how to report to DPSS:

**A. Reporting to the University**

**1. Contact the Title IX Coordinator**

**a. How to Make Reports of Prohibited Conduct**

Reports of Prohibited Conduct, whether Sexual and Gender-Based Misconduct or Title IX Misconduct, should be made to the Title IX Coordinator. Making a report means informing the Title IX Coordinator about the suspected Prohibited Conduct.

Individuals may also contact the Title IX Coordinator to ask about this Policy and related procedures, or to otherwise inquire about the University's responses to Prohibited Conduct in its Programs and Activities.

The Title IX Coordinator can be contacted by telephone or in person or by email. Contact information is as follows:

Jesús Hernandez  
Title IX Coordinator  
Room 1103  
(734) 432-5656  
[titleix@madonna.edu](mailto:titleix@madonna.edu)

**2. Non-Confidential Resources Reporting Obligations**

Individuals who are designated by the University as Individuals with Reporting Obligations (see Section VII) are obligated to report to the Title IX Coordinator any information they learn about Prohibited Conduct, as discussed in more detail below. Individuals with Reporting Obligations should not attempt to determine whether the behavior at issue constitutes Prohibited Conduct; instead, they must report all information about potential Prohibited Conduct to the Title IX Coordinator who will determine how to most appropriately handle the report.

**B. Receipt by the University of Reports of Prohibited Conduct**

Any individual may report Prohibited Conduct. It is not necessary for a reporting party or Complainant to determine in advance whether the behavior at issue meets the definition of Prohibited Conduct. Upon receipt of a report, the Title IX Coordinator will undertake a continuing assessment to determine the form of

Prohibited Conduct at issue and, in cases involving Employees and/or Third Parties, which procedures are applicable.<sup>2</sup>

When the Title IX Coordinator receives a report of Prohibited Conduct, the Title IX Coordinator will in all cases where the Complainant is identified, contact the Complainant to: (1) discuss the availability of Supportive Measures; (2) ask about the Complainant's wishes with respect to Supportive Measures; (3) inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and (4) explain how to file a Formal Complaint.

The process for filing a Formal Complaint is described in greater detail in Section VIII, but a Formal Complaint may be filed by a Complainant when a report is made or at another time thereafter, and may be filed with respect to conduct that constitutes Sexual and Gender-Based Misconduct or Title IX Misconduct. In some cases, as explained in further detail in Section VIII, the Title IX Coordinator may file a Formal Complaint even where the Complainant has not decided to do so.

### **C. Additional Information about Reporting**

#### **Time Frame for Reporting an Incident to the University**

The University strongly encourages individuals to report possible Prohibited Conduct promptly. To promote timely and effective review and appropriate corrective action (when applicable), the University encourages individuals to report possible Prohibited Conduct within 180 calendar days. Although the University does not limit the time for reporting Prohibited Conduct, it may be more difficult for the University to gather relevant and reliable evidence or to take corrective action regarding conduct that is reported to have occurred relatively long ago.

If the Respondent is no longer a Student, Employee, or a person who is participating or attempting to participate in any University Program or Activity at the time of the report, and/or if the reported conduct does not fall within the definition of Prohibited Conduct, the University's ability to take action against the Respondent under the Policy may be limited. The University will, however, help a Complainant identify other options outside the University, such as local law enforcement, and provide support and resources.

## **VII. INDIVIDUALS WITH REPORTING OBLIGATIONS**

Individuals with Reporting Obligations ("IROs") are required as set forth below to share with the Title IX Coordinator details they receive about Prohibited Conduct within 48 hours of learning of those details. IROs must provide their name, title, and contact information when making their

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<sup>2</sup> Consistent with Title IX and applicable law, the University uses the same procedures for all Prohibited Conduct allegations involving Student Respondents. In cases involving Employee Respondents, the University uses one of two procedures, both of which are designed to comply with applicable law while also promoting procedural efficiency and, to the extent practicable, consistency with other University policies, practices and procedures.

report and can do so by contacting the Title IX Coordinator as set forth above. Failure by an IRO to promptly share with the Title IX Coordinator all details they receive about Prohibited Conduct may subject them to appropriate discipline, up to and including termination of employment, in accordance with an applicable University process.

The positions identified in the list below are IROs. IROs denoted with an asterisk (\*) are officials of the University who have the authority to institute corrective measures on behalf of the University. IROs who have the authority to institute corrective measures on behalf of the University, have broader reporting responsibilities and are required to report all information about Prohibited Conduct that they receive, regardless of how and when they learned of the information, e.g., whether the information was shared with them in the scope of their employment or in some other capacity, including if they learned during a classroom or research activity, awareness event, or other exempt disclosures as outlined below. IROs that are not denoted with an asterisk (\*) are not obligated to report matters that arise outside of the scope of their employment as outlined below.

The following IROs are required to report to the Title IX Coordinator information about Prohibited Conduct:

### **Administrators**

- Board of Trustees\*;
- President\*;
- Executive Council\*;
- Cabinet Members\*;
- Academic Council\*;
- Department Chairs;
- Those serving in associate and assistant Department Chair roles; graduate chairs, and undergraduate chairs; and
- Academic and staff supervisors (i.e., employees who have authority to hire, transfer, suspend, layoff, recall, promote, discharge, reward, or discipline other employees).

### **Student Life**

- All staff members (including any individual, whether an Employee or not, who serves as a coach of a club or sports team), excluding clerical, custodial, maintenance, and dining employees; and
- Resident-Advisors in Housing.

### **Athletics**

- Athletic Director and Head Coaches for Athletics\*; and
- All athletics staff members, excluding clerical, custodial, maintenance, and dining employees.

### **Department of Public Safety**

- All staff members, excluding clerical, custodial, and maintenance employees.

### **Other**

- All human resource staff members (central, school, college, division, and/or unit) who are responsible for handling employment issues, excluding clerical and transactional employees;
- All faculty and staff members who provide direct oversight of University-related travel abroad experiences for students, including University-sponsored study abroad, research, fieldwork, or internship programs;
- All faculty and staff members who accompany students on University-related travel abroad; or
- Faculty and staff serving as identified advisers to student organizations.

Except for IROs in those positions delineated with an asterisk (\*) above, IROs are not required to report to the Title IX Coordinator when incidents of Prohibited Conduct are communicated/disclosed during a classroom discussion, in an assignment for a class and in discussions outside of class time (e.g., during office hours related to the assignment), or as part of a research project directly associated with the class, even when such disclosure would otherwise be considered within the scope of the IRO's employment.

In addition to being designated as an IRO, an individual may also have reporting obligations under the Clery Act as a Campus Security Authority ("CSA"). Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education, but does so in an anonymized manner that does not include the specifics of the crime or any identifying information about persons involved in an incident. For more information about who is a CSA, please refer to the Department of Public Safety website.

## **VIII. FORMAL COMPLAINTS**

When the Title IX Coordinator receives a report of Prohibited Conduct, he will in all cases contact the Complainant, if their identity is known, and explain the process for filing a Formal Complaint. A Formal Complaint is submitted by the Complainant in person, by mail, or by email. The Formal Complaint must contain the Complainant's physical or digital signature, or otherwise indicate that

the Complainant is the person filing the Formal Complaint. When a Formal Complaint is filed, the Title IX Coordinator will evaluate it for a number of things, including whether the Complainant is participating in or attempting to participate in a Program or Activity.

The Title IX Coordinator has discretion to file a Formal Complaint even if the Complainant chooses not to, and even if the Complainant chooses not to participate in a University resolution process. Where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to a formal or informal resolution process.

After a Formal Complaint has been filed by the Complainant or the Title IX Coordinator, the University will commence the appropriate resolution process.

## **IX. SUPPORTIVE MEASURES**

Supportive Measures are individualized services, accommodations, and other assistance that the University offers and may put in place, without fee or charge. Supportive Measures are designed to restore or preserve equal access to the University's Programs and Activities, protect the safety of all parties and the University's educational environment, and/or deter Prohibited Conduct, without being punitive or disciplinary in nature or unreasonably burdening the other party.

Supportive Measures are available regardless of whether the matter is reported to the University for the purpose of initiating a proceeding under this Policy and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures has the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. Any Complainant who requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint under this Policy.

When the Title IX Coordinator receives a report of possible Prohibited Conduct, they will contact the Complainant to (1) discuss the availability of Supportive Measures; and (2) explain that Supportive Measures are available with or without filing a Formal Complaint. When the report involves a University Employee, the Title IX Coordinator will also explain the University's obligation to investigate or otherwise respond to the report.

An individual may choose to request Supportive Measures from a Confidential Resource, listed below, regardless of whether any complaint is filed with the Title IX Coordinator or law enforcement. If Supportive Measures are provided through a Confidential Resource, this action will not prompt any other University response.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other affected members of the University Community.

To determine the appropriate Supportive Measure(s) to be implemented, the University conducts an individualized assessment based on the facts and circumstances of a situation. Supportive Measures will not be disciplinary or punitive in nature and will not unreasonably burden, or unreasonably interfere with the University Program or Activity pursuits of the other party. Whether a possible Supportive Measure would unreasonably burden the other party is a fact-

specific determination that takes into account the nature of the programs, activities, opportunities, and benefits in which an individual is participating.

Examples of Supportive Measures include:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments; transfer course sections; modify an academic schedule (typically to separate the Complainant and the Respondent) or withdraw from courses;
- Work schedule or job assignment modifications (for University Employees);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Mutual restrictions on contact or communication between the parties, although one-way restrictions may be appropriate is to help enforce a preliminary injunction, restraining order, or other order of protection issued by a court, or in other special circumstances;
- Temporarily limiting an individual's access to certain University facilities or activities;
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absence;
- Increased monitoring and security of certain areas of the campus;
- Reassignment of Patient to another physician; or
- Any combination of these measures.

The University will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

#### **X. EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE**

The University may enact an emergency removal of Students, Third Parties and administrative leave or suspension for Employees where appropriate for the health and safety of the University Community.

## **XI. PROHIBITED CONDUCT**

Prohibited Conduct under this Policy includes Sexual and Gender-Based Misconduct (i.e., Sexual Assault; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Sex and/or Gender-Based Stalking; Intimate Partner Violence; Sex and Gender-Based Discrimination; Retaliation and Violation of Supportive Measures) and Title IX Misconduct (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX).

For Employees, in those instances in which reported behavior could constitute both Sexual and Gender-Based Misconduct and Title IX Misconduct, the procedures applicable to Title IX Misconduct generally will be used as long as Title IX Misconduct is under investigation. Title IX Misconduct procedures will not be used if, for whatever reason, the Title IX Misconduct is no longer under investigation, and the procedures applicable to Sexual and Gender-Based Misconduct will be used. As set forth in Section III above, there is only one set of applicable procedures for Students, irrespective of whether the alleged Prohibited Conduct is Sexual and Gender-Based Misconduct or Title IX Misconduct.

Whether someone has engaged in Prohibited Conduct under this Policy will be assessed under a Reasonable Person standard, as defined above in Section II.

### **A. Sexual and Gender-Based Misconduct**

#### **1. Sexual Assault**

Sexual Assault is Sexual Contact that occurs without Consent.

#### **2. Sexual Exploitation**

Sexual Exploitation is intentional conduct by which an individual takes or attempts to take non-consensual sexual advantage of another for one's own benefit, or to benefit anyone other than the one being exploited.

#### **3. Sexual Harassment**

Sexual Harassment is any unwelcome conduct of a sexual nature, whether verbal, graphic (e.g., pictures and videos), physical, or otherwise, when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, education, living environment, or participation in any University Program or Activity;
- Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University Program or Activity; and/or

- Such conduct creates a hostile environment. A hostile environment exists when the unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University Program or Activity or creates an intimidating, hostile, offensive, or abusive environment for that individual's participation in a University Program or Activity. 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 the nature, frequency, intensity, location, context, and duration of the behavior. Although a hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient.

This definition of Sexual Harassment addresses intentional conduct. It may also include conduct that results in negative effects even though such negative effects were unintended. Unwelcome conduct of a sexual nature constitutes Sexual Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

#### **4. Gender-Based Harassment**

Gender-Based Harassment includes harassment based on actual or perceived sex, sexual orientation, gender identity, gender expression, or pregnancy. Such harassment may include acts of aggression, intimidation, or hostility, whether verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the behavior:

- Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University Program or Activity;
- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University Program or Activity; and/or
- Creates a hostile environment for that individual's participation in a University Program or Activity. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a University Program or Activity, or creates an intimidating, hostile, offensive, or abusive environment for that individual's employment,

education, living, or participation in a University Program or Activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective standard. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior. Although a harassing hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient to constitute a hostile environment.

This definition of Gender-Based Harassment addresses intentional conduct. It also may include conduct, which results in negative effects even though such negative effects were unintended. Unwelcome behavior constitutes Gender-Based Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

## **5. Sex and/or Gender-Based Stalking**

This Policy addresses stalking on the basis of sex or gender. Stalking occurs when an individual engages in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person<sup>3</sup> to:

- Fear for their own safety or the safety of others; or
- Suffer substantial emotional distress.

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

Where a report of Stalking involves the alleged behavior of a Student, the Title IX Coordinator will determine if the reported conduct meets these criteria. Alleged Stalking behavior by a Student that does not fall under this Policy may be addressed under the relevant Student Code of Conduct provisions of the University.

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<sup>3</sup> For purposes of this definition of Sex and/or Gender-Based Stalking only, the definition of "Reasonable Person" is a Reasonable Person under similar circumstances and with similar identities to the Complainant.

## **6. Intimate Partner Violence**

Intimate Partner Violence, collectively “IPV,” includes Dating Violence and Domestic Violence.

The term “Dating Violence” means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on the reporting party’s statement and with a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship; and
  - The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but it is not limited to, sexual or physical abuse or the threat of such abuse.

The term “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Michigan, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the State of Michigan.

## **7. Sex and Gender-Based Discrimination**

Sex and Gender-Based Discrimination is conduct that is based upon an individual’s sex, sexual orientation, gender identity, gender expression, or pregnancy that:

- Adversely affects a term or condition of an individual’s employment, education, living environment, or participation in a University Program or Activity; and/or
- Is used as the basis for or a factor in decisions affecting that individual’s employment, education, living environment, or participation in a University Program or Activity.

## **8. Retaliation**

Retaliation means an adverse action taken against a person for making a report or Formal Complaint of Prohibited Conduct; being alleged to have committed Prohibited Conduct; assisting or participating, or refusing to participate, in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, or discrimination including adverse employment or educational actions that would discourage a Reasonable Person from engaging in activity protected under this Policy.

Initiating disciplinary proceedings against an individual for making a materially false statement in bad faith in the course of a proceeding under the Policy does not constitute Retaliation under this Policy; however, a determination regarding responsibility, alone, is insufficient to conclude that any party made a materially false statement in bad faith.

## **9. Violation of Supportive Measures**

Supportive Measures are discussed in more detail in Section IX. Failure to comply with Supportive Measures as required is a separate and independent violation of this Policy.

## **XII. INVESTIGATION AND RESOLUTION PROCESSES WHEN THE RESPONDENT IS A STUDENT**

This Section describes the University's investigation and resolution processes for cases in which the Respondent is a Student and in which the conduct alleged falls within this policy.

### **A. Investigation**

The University will investigate all written reports of sexual misconduct reported to the Title IX Coordinator. The investigation and adjudication procedures (if needed) will be prompt, fair, and impartial. The process typically will begin with intake meetings conducted by the Title IX Coordinator.

The Title IX Coordinator or his/her designee will conduct an initial review of the written Complaint. If the Complaint demonstrates that the case implicates the University's Title IX obligations to provide a safe and nondiscriminatory environment for the broader University Community, the Title IX Coordinator will initiate an investigation. If the Title IX Coordinator determines that the Complaint does not implicate the University's Title IX obligations, then the Title IX Coordinator will be authorized to close the matter.

For Complaints which will move forward under the Title IX process, the Title IX Coordinator will appoint an Investigator to handle the investigation. This Investigator will be a different person than the Title IX Coordinator. Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. Prior to completion of the investigative report, the University will send to

each party, and the party's adviser if any, a preliminary investigative report and the evidence subject to inspection and review. The evidence will be available at any hearing, to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination. The University retains discretion to elect to send such materials in an electronic format or a hard copy. The provision of such evidence may include data security safeguards that prevent it from being downloaded, printed or forwarded. The parties will have ten (10) days to submit a written response to the preliminary investigative report no later than 5 pm on the tenth (10th) day following the date the parties receive the evidence. Requests for extensions must be submitted to the Investigator prior to the expiration of the ten (10)-day period. The Investigator will consider any such response prior to completion of the final investigative report. The Investigator will then create a final investigative report that fairly summarizes the relevant evidence, typically within 90 business days of the date the Respondent received notice of the investigation. The final investigative report will not make any recommendation as to whether a Protocol violation has occurred or potential sanctions. At least ten (10) days prior to a hearing, the University will send the final investigative report to each party, and the party's Adviser if any, for their review and written response. Any such response must be received by the Title IX Coordinator within five days of when the final investigative report was delivered to the party, so that the party's response may be available for consideration by the Adjudicator. If warranted, the Investigator may choose to update the final investigative report to take a party's response into account, in which case the hearing date may be postponed. The Investigator will not make any recommendation as to whether a Policy violation has occurred or potential sanctions. Depending on how the Complaint proceeds, the investigation report and other materials related to the investigation may be presented at a Resolution Hearing and/or may be presented during an Informal Resolution process. The University will make reasonable efforts to balance and protect the rights of the parties during any investigation commenced under this Policy. The University will respect the privacy of the parties and any witnesses in a manner consistent with The University's obligations to investigate the alleged incident and take appropriate interim and/or corrective action. The Title IX Coordinator will keep the parties reasonably informed of the status of the investigation. Both Complainants and Respondents may utilize Advisers throughout the investigation process, including to accompany them to any hearing, conference, or related disciplinary proceeding. Advisers are not permitted to directly participate in Resolution Hearings or Informal Resolution conferences; they may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, the Hearing Officer, other parties, or witnesses.

## **B. Informal Resolution**

For Complaints with a student Respondent, at the discretion of the Title IX Coordinator, the parties may opt to pursue an Informal Resolution as an alternative to a Resolution Hearing. An Informal Resolution involves a remedies-based, non-judicial process designed to eliminate or address potential sexual misconduct. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. The University will not compel face-to-face confrontation between the parties or participation in any particular form of Informal Resolution. The Title IX Coordinator will make an initial decision about whether a case qualifies for an Informal Resolution, and if

both parties then agree to pursue that path, the University will halt any investigation or scheduled Resolution Hearing so that the parties can explore the possibility of Informal Resolution. Participation in an Informal Resolution is voluntary, and either party can request to end the Informal Resolution conference at any time and return the investigation or proceeding to its pre-conference status. If the parties agree to a resolution during an Informal Resolution process, the Title IX Coordinator will oversee its implementation, the Complaint will be deemed withdrawn, and the matter will be terminated. However, the resolution will be considered binding, and its breach would give rise to a new Complaint, which may restart the investigation and/or Resolution Hearing process.

### **C. Resolution Hearing**

A Resolution Hearing is the University's disciplinary proceeding through which a Hearing Officer evaluates evidence related to a Complaint to determine whether a Student Respondent is responsible or not responsible for a violation of this Policy, based on the criteria of "a preponderance of evidence." Under this standard, the burden of proof is met and a Respondent may be found responsible for a Policy violation if the Hearing Officer determines that it is more likely than not that the Respondent committed the violation. If the Respondent is found in violation of the Policy, the Respondent may be subjected to disciplinary action. The Hearing Officer will not be the same person as either the Title IX Coordinator or the Investigator. Cases will be adjudicated by a trained third-party Adjudicator. Respondents are entitled to, and will receive the benefit of, a presumption that they are not responsible for the alleged conduct until the grievance process concludes and a determination regarding responsibility is issued. If the Respondent is found responsible for a violation of this Policy, the Respondent may be subjected to disciplinary action.

At the request of either party, the University will conduct the live hearing with the parties located in separate rooms. Technology must enable the Hearing Officer and parties to simultaneously see and hear the party or witness answering questions. Live hearings may, then, be conducted with all parties physically present in the same location, or any or all parties, witnesses and other participants may appear at the live hearing virtually. The University will create a transcript or recording (audio or audiovisual) of any adjudicative hearing. It will be available to the parties for inspection and review in accordance with the requirements of FERPA. The Title IX Coordinator will identify the Hearing Officer to the parties five days in advance of the hearing. Either party may challenge a Hearing Officer if believed to have a conflict of interest or bias. A challenge must be delivered in writing to the Title IX Coordinator at least two days in advance of the hearing, specifying the reasons for such belief. The Title IX Coordinator has sole discretion to keep or replace the challenged Adjudicator, and if replaced, will postpone the hearing to allow for a replacement Adjudicator. Five days in advance of the hearing, the parties will identify their Adviser and their expected witnesses (including themselves), including the witnesses' expected sequence, via writing to the Title IX Coordinator, who will supply the disclosure to the other party. The parties will not be strictly bound to their disclosures, but they should be submitted in good faith. Typically, the parties will be in charge of choosing and supplying their own witnesses at the hearing. When necessary for the pursuit of truth and to gather evidence sufficient to reach a determination, the Hearing Officer has discretion to ask the Title IX Coordinator to request additional witnesses after receipt of the parties'

witness lists; recognizing, however, that the University generally has no ability to compel any witness to attend. Any such requested witness will be disclosed to the parties. The University may, within its discretion, require the parties to participate in a pre-hearing conference with their Advisers and the Adjudicator. At the hearing, all relevant evidence will be objectively evaluated. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true. i.e., “inculpatory” or corroborating evidence and “exculpatory” or contradicting evidence. Credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless: (1) offered to prove that someone other than the Respondent committed the conduct alleged; or (2) 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. While all relevant evidence presented at a hearing by the parties will be considered, the Hearing Officer has discretion to grant lesser weight to last-minute information or evidence introduced at the hearing that was not previously presented for investigation by the Investigator. Each party may be accompanied to the hearing by the Adviser of their choice, who may be, but is not required to be, an attorney. Advisers may be present solely to advise or support the party and are prohibited from speaking directly to the Investigator, Adjudicators, other parties, or witnesses during the hearing, except for conducting cross examination. At the hearing, the Adjudicator will typically ask questions first, before either Adviser. Subsequently, each party’s Adviser is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross examination at the live hearing must be conducted directly, orally, and in real time by the party’s Adviser of choice, and never by a party personally. If a party does not have an Adviser present at the live hearing, The University will provide without fee or charge to that party, an Adviser who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. If a party does not have an Adviser for the hearing, the party must notify the Title IX Coordinator no later than the party’s pre-hearing disclosures. Otherwise, the hearing may be delayed, and the appointed Adviser may have less time to prepare for the hearing. The University will make available a pool of trained Advisers from which the party may select an Adviser. Only relevant cross-examination and other questions may be asked of a party or witness. Before a party or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the live hearing, the Adjudicator must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Adjudicator cannot, however, draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions. The Hearing Officer will issue a written determination, typically within 15 days following the hearing. Based on a preponderance of the evidence, the Adjudicator will decide if the respondent is responsible for engaging in the conduct alleged, and if so, what disciplinary action may be appropriate. The written determination will include:

- Identification of the allegations potentially constituting sexual harassment under this Policy;

- A description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including:
  - o A determination regarding responsibility;
  - o Any disciplinary sanctions the Adjudicator imposes on the Respondent; and
  - o Whether remedies designed to restore or preserve equal access to The University’s education program or activity will be provided to the Complainant; and
- Procedures and permissible bases for the parties to appeal the determination. The written determination will be provided to the parties simultaneously. Supportive Measures also may be provided to the Complainant that are designed to restore or preserve equal access to The University’s education program or activity, even if they are not listed in the written determination. Remedies and Supportive Measures that do not impact the Respondent should not be disclosed in the written determination; rather, the determination should simply indicate that “remedies will be provided to the Complainant.” The Title IX Coordinator is responsible for effective implementation of any remedies and Supportive Measures.

#### Range of Sanctions and Remedies

- Expulsion
- Suspension
- Disciplinary Probation
- Deferred Disciplinary Probation

#### **D. Appeals**

Appeals can only be raised on one or more of the following grounds: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available to the appealing party before or during the time of the hearing and that could alter the decision; (3) the Title IX Coordinator, Investigator, or Adjudicator(s) had a conflict of interest or bias for or against complainants or respondents generally or against the appealing party individually that affected the outcome of the matter; (4) the determination cannot reasonably be supported by the evidence; or (5) the severity of the

sanction. Either Complainant or Respondent may appeal any Hearing Officer decision. Appeals must be submitted in writing to the Title IX Coordinator within 10 days of the date that the written adjudication determination is provided to the parties. The written appeal must state the ground(s) for the appeal, include the name of the appealing party, and bear evidence that it was submitted by the appealing party. The appeal statement must contain a sufficient description supporting the grounds for appeal. If the grounds for appeal is to consider new evidence that could affect the outcome of the matter that was not reasonably available to the appealing party before or during the time of the hearing or the dismissal, then the written appeal must include such information. If the grounds for appeal is an allegation of conflict of interest or bias, the notice of appeal must describe with specificity the basis upon which such conflict of interest or bias is alleged and how it allegedly affected the outcome. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission. Upon receipt of an appeal, the University will:

1. Notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the Appellate Officer is not the same person as the decision-maker that reached the original determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the Appellate Officer does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the Appellate Officer has received the appropriate and necessary training;
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The University will provide a copy of the appeal to the non-appealing party. The non-appealing party may submit a written statement within 10 days that may seek to affirm the initial decision and/or respond to the appeal statement. The Title IX Coordinator has discretion to impose or withhold any applicable sanctions or supportive measures prior to the appeal deadline and prior to the resolution of any appeal. The Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time frame, typically within 10 days following receipt of all appeals materials. The appeal will determine whether the Adjudicator made an error on the grounds alleged in the appeal statement. The appeal is typically determined based on the existing record, but the appeal decision-maker has discretion to convene a limited or full hearing if needed. The appeal decision will be given simultaneously to both parties. The Appellate Officer will take action on the appeal based on the relevant ground for appeal as set forth below:
  - In cases where there has been a material procedural error sufficient to affect the determination posed, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.

- In cases where the Appellate Officer deems there is new evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal, that could affect the outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the Title IX Coordinator to assure the University provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer deems the determination cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.

### **XIII. INVESTIGATION AND RESOLUTION PROCESSES WHEN THE RESPONDENT IS NOT A STUDENT**

If the Respondent is not a student, and the Formal Grievance Protocol is not required under Section 106.30 of the Title IX Regulations, then some of the procedures for investigation and resolution may differ from the processes involving Student Respondents described in Section XII, above. The report and notification processes, however, will be consistent with the processes described in this Policy.

#### **When the Complainant is not a Student and the Respondent is Staff**

In instances where the Complainant is not a Student and the Respondent is staff, the Investigator will draft an investigative report that includes findings of the investigation and a determination regarding whether the Respondent violated the Policy. The Title IX Coordinator will review the investigative report and send to the staff Respondent's Manager/Department Head, as well as Human Resources, who are responsible for sanctioning, as applicable. Any review of the findings and sanction would take place under applicable Human Resources policies of the University. The Title IX Coordinator or designee will inform the Complainant and the Respondent of the determination as to whether the Respondent violated the Policy and the parties may be informed of the outcome.

#### **When the Complainant is not a Student and the Respondent is Faculty or a Postdoctoral Fellow/Trainee**

In instances where the Complainant is not a Student and the Respondent is faculty or a postdoctoral fellow/trainee, the Investigator will draft an investigative report that includes findings of the investigation and a determination regarding whether the Respondent violated the Policy. The Title IX Coordinator will review the investigative report and send to the faculty or postdoctoral fellow/trainee Respondent's Dean and Human Resources, for sanctioning, as well as any other applicable process. Any review of the findings and sanction would take place under the Faculty Handbook for faculty. The Title IX Coordinator or designee will inform the Complainant and the

Respondent of the determination as to whether the Respondent violated the Policy and the parties may be informed of the outcome.

### **When the Complainant is a Student and the Respondent is Staff or Faculty or a Postdoctoral Fellow/Trainee**

In instances where the Complainant is a Student and the Respondent is either staff, faculty, or a postdoctoral fellow/trainee, the Investigator will provide the Respondent the opportunity to review the evidence gathered in the investigation prior to making a determination whether the Respondent violated the Policy. The Title IX Office may redact non-party names and sensitive information from the evidence. The Respondent may view the redacted information by scheduling an appointment with the Title IX Office. The Respondent may submit written comments on the evidence. Any such comments are limited to no more than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font and must be submitted either by hand delivery or mail to the Investigator by no later than 5pm on the tenth (10th) day following the date the Respondent receives the evidence. Requests for extensions must be submitted to the Title IX Office prior to the expiration of the ten (10)-day period. Following review of any comments submitted and additional investigation, as appropriate, the Investigator will prepare the investigative report that includes findings of the investigation and a determination whether the Respondent violated the Policy. The Title IX Coordinator will provide the report on the findings of the investigation to the Complainant and the Respondent. The parties may be informed of the outcome.

### **Appeals**

In investigations in which Students are Complainants, the parties may appeal the determination by the Title IX Office. Appeals can only be raised on one or more of the following grounds:

- (1) a procedural irregularity that affected the outcome of the matter;
- (2) new evidence that was not reasonably available to the appealing party before or during the time of the hearing and that could alter the decision;
- (3) the Title IX Coordinator or Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or against the appealing party individually that affected the outcome of the matter; and
- (4) the determination cannot reasonably be supported by the evidence. Appeals must be submitted in writing to the Title IX Coordinator within 10 days of the date that the written adjudication determination is provided to the parties.

The notice of appeal must be no longer than ten (10) double-spaced pages with one (1) inch margins and twelve (12) point font. The written appeal must state the ground(s) for the appeal, include the name of the appealing party, and bear evidence that it was submitted by the appealing party. The appeal statement must contain a sufficient description supporting the grounds for appeal. If the grounds for appeal is to consider new evidence that could affect the outcome of the matter that was not reasonably available to the appealing party before or during the time of the hearing or the dismissal, then the written appeal must include such information. If the grounds for appeal is an allegation of conflict of interest or bias, the notice of appeal must describe with

specificity the basis upon which such conflict of interest or bias is alleged and how it allegedly affected the outcome. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission. Upon receipt of an appeal, The University will notify the other party in writing when the appeal is filed and implement appeal procedures equally for both parties. The University will provide a copy of the appeal to the nonappealing party. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The non-appealing party may submit a written statement within 10 days that may seek to affirm the initial decision and/or respond to the appeal statement. The non-appealing party's written statement must be no longer than ten (10) double-spaced pages. The Title IX Coordinator has discretion to impose or withhold any applicable sanctions or supportive measures prior to the appeal deadline and prior to the resolution of any appeal. The Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result within a reasonably prompt time frame, typically within 10 days following receipt of all appeals materials. The appeal is determined based on the existing record, the petition, any new evidence in the petition that was not reasonably available for presentation to the Title IX Office and the introduction of which could reasonably be expected to change the Title IX Office's determination, and any written responses. The appeal decision will be provided simultaneously to both parties.

The appeal decision will be also be provided to the following persons:

- Staff Respondent: The staff Respondent's Manager/Department Head, as well as Human Resources;
- Faculty Respondent: The faculty Respondent's Dean.

The Appellate Officer will take action on the appeal based on the relevant ground for appeal as set forth below:

- In cases where there has been a material procedural error sufficient to affect the determination posed, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems there is new evidence that was not reasonably available to the appealing party at the time of the hearing or dismissal, that could affect the outcome of the matter, the Appellate Officer will remand the case to the Title IX Office with instructions, as appropriate.
- In cases where the Appellate Officer deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer will refer the case to the Chief Operating Officer to assure the University provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer deems the determination cannot reasonably be supported by the evidence, the Appellate Officer will reverse the determination.