



Saint Mary's
University
of MINNESOTA

Sex Discrimination Policy

Effective August 1, 2024

TABLE OF CONTENTS

<i>I.</i>	<i>NOTICE OF NON-DISCRIMINATION</i>	<i>2</i>
<i>II.</i>	<i>SCOPE</i>	<i>3</i>
<i>III.</i>	<i>TITLE IX COORDINATOR AND TITLE IX TEAM</i>	<i>4</i>
<i>IV.</i>	<i>DEFINITIONS</i>	<i>6</i>
<i>V.</i>	<i>PROHIBITED CONDUCT</i>	<i>9</i>
	<i>A. Non-Harassment Sex Discrimination</i>	<i>9</i>
	<i>i Differential Treatment</i>	<i>9</i>
	<i>ii Retaliation</i>	<i>10</i>
	<i>iii Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions</i>	<i>10</i>
	<i>B. Sex-Based Harassment</i>	<i>11</i>
	<i>i Quid Pro Quo Harassment</i>	<i>11</i>
	<i>ii Hostile Environment Harassment</i>	<i>11</i>
	<i>iii Sexual Exploitation</i>	<i>12</i>
	<i>iv Sexual Assault</i>	<i>13</i>
	<i>v Domestic Violence</i>	<i>13</i>
	<i>vi Dating Violence</i>	<i>14</i>
	<i>vii Stalking</i>	<i>14</i>
<i>VI.</i>	<i>STUDENT REQUESTING REASONABLE MODIFICATIONS FOR PREGNANCY AND RELATED CONDITIONS</i>	<i>15</i>
<i>VII.</i>	<i>ROMANTIC AND SEXUAL RELATIONSHIPS</i>	<i>16</i>
<i>VIII.</i>	<i>CONFIDENTIALITY</i>	<i>16</i>
	<i>A. Confidential Employees and External Confidential Resources</i>	<i>16</i>

B.	Non-Confidential Communications.....	18
C.	Requests for Confidentiality or Non-Action.....	19
D.	Statistical Reporting and Clery Act Warning.....	20
E.	Public Awareness Events	21
F.	Steps to Protect Privacy of Parties and Witnesses	21
IX.	<i>IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEX DISCRIMINATION</i>	22
X.	<i>REPORTING SEX DISCRIMINATION</i>	23
A.	Reporting to the University.....	23
i	Employee Reporting Obligations	24
ii	Anonymous Reports.....	25
iii	Mandatory Reporting Concerning Minors and Vulnerable Adults	25
B.	Reports to Law Enforcement	25
C.	Orders for Protection, Criminal No-Contact Orders, and University No- Contact Directives	26
D.	Crime Victims Bill of Rights	27
E.	Amnesty	28
F.	Emergency Removal	28
G.	Administrative Leave	29
XI.	<i>GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS</i>	29
A.	Trained, Impartial Officials.....	30
B.	Equal Rights of the Complainant and Respondent	30
C.	Additional Rights in Cases Implicating the Heightened Grievance Procedure.....	31
D.	Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking	32

E.	Right to an Advisor	33
F.	Requests for Reasonable Accommodations	34
G.	Supportive Measures	34
H.	Non-Participation and Silence	37
I.	Obligation to Act in Good Faith	37
J.	Obligation to Be Truthful	37
K.	Conflicts of Interest and Bias	38
L.	Time Frames for Resolution	38
	i General Grievance Procedure (Allegations of Non-Harassment Sex Discrimination and Allegations of Sex-Based Harassment Where Neither Party Is a Student).....	38
	ii Heightened Grievance Procedure (Allegations of Sex-Based Harassment Involving At Least One Student Party).....	39
M.	Presumption of Non-Responsibility	40
N.	Application of Policy	40
O.	Reservation of Flexibility.....	40
<i>XII.</i>	<i>PROCEDURES FOR SEX DISCRIMINATION COMPLAINT RESOLUTION.....</i>	<i>41</i>
A.	Initial Meeting Between Complainant and Title IX Coordinator	41
B.	Complaint and Notice of the Allegations	42
C.	Investigation of Other University Policy Violations	43
D.	Consolidation of Complaints.....	44
E.	Informal Resolution Process	44
F.	Formal Resolution Process.....	45
	i Investigation.....	46
	ii Decisionmaker Review and Individual Meetings (General Grievance Procedure Only).....	47

iii	Access to Relevant Evidence and Investigation Report	48
iv	Live Hearing (Heightened Grievance Procedure Only)	49
v	Determination	50
vi	Sanctions and Remedies	51
vii	Notice of Determination	56
viii	Dismissal of Complaint Prior to Adjudication	57
ix	Appeal	57
a)	Submitting an Appeal	58
b)	Consideration of Appeal	59
<i>XIII.</i>	<i>RECORDKEEPING RELATED TO SEX DISCRIMINATION</i>	<i>60</i>
<i>XIV.</i>	<i>TRAINING</i>	<i>61</i>
A.	All Employee Training	61
B.	Training for Individuals with Heightened Responsibilities	61
<i>XV.</i>	<i>COMPLAINTS OF RELATED MISCONDUCT</i>	<i>62</i>
<i>XVI.</i>	<i>ALTERNATIVE PROCEDURES</i>	<i>62</i>
<i>XVII.</i>	<i>RESOURCES</i>	<i>63</i>
	EMERGENCY RESPONSE	63
	MEDICAL TREATMENT	63
	COUNSELING	64
	OTHER RESOURCES	64
<i>XVIII.</i>	<i>STATE LAW DEFINITIONS</i>	<i>65</i>

Nothing in this Policy is intended to create or define the terms of a contract between Saint Mary's University of Minnesota and any student, employee, independent contractor, vendor, or other individual or entity.

Saint Mary's University of Minnesota

Sex Discrimination Policy

POLICY STATEMENT

Saint Mary's University of Minnesota (the "University") is committed to fostering a climate free from Sex Discrimination in all forms through clear and effective policies, a coordinated education and prevention program, and prompt and equitable procedures for resolution of reports of conduct prohibited under this Policy.

As a Lasallian Catholic institution of higher education, the University believes in the inherent dignity and worth of every student and employee. As such, the University strives to create an environment where the dignity of each person is respected and honored. Sex Discrimination violates the dignity of the person and is inconsistent with the mission and values of the University.

This Policy outlines the University's community expectations to ensure a campus free from Sex Discrimination, the steps for recourse for those individuals who have been subject to Sex Discrimination, and the procedures for determining whether a violation of University policy has occurred. This Policy applies to the following forms of Sex Discrimination: Non-Harassment Discrimination (Differential Treatment, Retaliation, and Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions) and Sex-Based Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation), as those terms are defined in this Policy. For the University's nondiscrimination policy regarding other protected class statuses, see the University's Discrimination and Harassment Policy on the university's Human Resources webpage and the Student Handbooks. For the University's policy regarding student pregnancy and related conditions, see the university's Human Resources page. Where the content of this Policy conflicts with other similar policies set forth in the student and/or Faculty and Employee handbooks, the requirements of this Policy shall prevail.

This Policy supersedes any previous policies regarding sex discrimination, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated, as needed, by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect, and shall be applicable immediately to faculty, staff and students, with or without notice. If government laws or regulations change, or court decisions alter, the

requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

I. NOTICE OF NON-DISCRIMINATION

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

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The University is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual's sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that excludes an individual from participation in, denies the individual the benefits of, or treats the individual less favorably in an education program or activity. Sex-Based Harassment is a form of sex discrimination. In accordance with Title IX and its regulations, the University's Title IX Policy addresses the University's prohibition of the following forms of sex discrimination: Non-Harassment Discrimination (Differential Treatment, Retaliation, and Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions) and Sex-Based Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation). The Policy can be found at:

<https://www.smumn.edu/about/offices-services/title-ix/title-ix-coordinator/>

The University prohibits unlawful sex discrimination in any form. The University will promptly and equitably respond to all reports of Sex Discrimination. To report information about conduct that may constitute Sex Discrimination or to make a complaint of Sex Discrimination, please contact the Title IX Coordinator.

Questions or concerns about Title IX and/or Sex Discrimination, including Sex-Based Harassment, may be directed to the University's Title IX Coordinator:

Marisa Naryka, Ed.D.

Title IX Coordinator
2500 Park Avenue
138 Martin de Porres Hall
Minneapolis, MN 55404
Title IX@smumn.edu
507-457-1781

Question or concerns about other discrimination or harassment may be directed to the Assistant Vice President for Human Resources:

Fernando Rosas
Assistant Vice President for Human Resources
700 Terrace Heights
147 Heffron Hall
Winona, MN 55987
hr@smumn.edu
507-457-1421

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

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

II. SCOPE

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

This Policy applies to Sex Discrimination committed by or against a University community member, including conduct occurring on campus or University property, conduct that occurs at University-

sanctioned events or programs that take place off campus, such as study abroad and internships, and off campus conduct that may (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Although the University maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the University has no tolerance for any unlawful form of Sex Discrimination committed against any individual, regardless of the individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of Sex Discrimination.

III. TITLE IX COORDINATOR AND TITLE IX TEAM

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

- Coordinating specific actions to prevent Sex Discrimination and ensure equal access to the University's education program or activity;
- Ensuring University policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent or another individual, about the procedural options and processes used by the University and about resources available at the University and in the community;
- Monitoring the University's education program or activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination and taking steps reasonably calculated to address such barriers;
- Training and assisting University employees regarding how to respond appropriately to a report of Sex Discrimination;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the University's climate and culture take place;
- Coordinating the University's efforts to identify and address any patterns or systemic problems revealed by reports and complaints;

- Recordkeeping of all incidents reported to the Title IX Coordinator;
- Complying with written notice requirements of the Violence Against Women Act; and
- Assisting in answering any other questions related to this Policy.

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

Marisa Naryka, Ed.D.
Title IX Coordinator
2500 Park Avenue
138 Martin de Porres Hall
Minneapolis, MN 55404
TitleIX@smumn.edu
507-457-1781

The University's Title IX Team includes appointed staff and faculty designees. These team members have a shared responsibility for consulting with, and supporting, the Title IX Coordinator and may serve as the Title IX Coordinator's designee. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee. Members of the team may also be called upon to investigate or adjudicate complaints of Sex Discrimination, decide appeals, and/or facilitate informal resolutions. The Title IX Coordinator has authority to consult with each individual appointed to serve in a role in the complaint resolution process to ensure compliance with the law and this Policy and to promote consistency in the University's processes.

The Title IX Team includes but is not limited to:

Niki Peterson, M.S.
Deputy Title IX Coordinator
195 Griffin Hall
700 Terrace Heights
Winona, MN 55987
507-457-1403
npeterso@smumn.edu

Brian Kusek, M.A.
Deputy Title IX Coordinator
100 Saint Mary's Hall
700 Terrace Heights
Winona, MN 55987
507-457-1817
bkusek@smumn.edu

Becki Warnock, M.Ed.

Deputy Title IX Coordinator
Mother Teresa Hall 15
2500 Park Ave.
Minneapolis, MN 55404
612-238-4575
rwarnock@smumn.edu

The University also reserves the right to outsource actions under this Policy to third parties, including actions of the Title IX Coordinator, investigator, decisionmaker, and appeal officer.

IV. DEFINITIONS

Complainant refers to an individual who is alleged to have been subjected to conduct that could violate this Policy.

Respondent refers to an individual who is alleged to have violated this Policy.

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

A **complaint** is an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about an alleged violation of this Policy. A complaint generally begins the complaint resolution process as set forth in Section XI. General Provisions for Complaint Resolution Process below.

Sex Discrimination as used in this Policy means the following forms of misconduct: Non-Harassment Sex Discrimination (Differential Treatment, Retaliation, and Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions) and Sex-Based Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking), as each of those terms is defined below in Section V. Prohibited Conduct.

Non-Harassment Sex Discrimination as used in this Policy means the following forms of misconduct: Differential Treatment, Retaliation, and Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions, as each of those terms is defined below in Section V. Prohibited Conduct.

Sex-Based Harassment as used in this Policy means the following forms of misconduct: Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each of those terms is defined below in Section V. Prohibited Conduct.

On the basis of sex as used in this Policy means when conduct is sexual in nature or is referencing or aimed at a particular sex. On the basis of sex includes on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

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

The definition of consent is subject to the following:

- Consent to one form of sexual contact or activity does not, by itself, constitute consent to any other forms of sexual contact or activity.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual contact or activity for which consent was initially provided must stop.
- Consent is active, not passive. Silence or the absence of resistance or saying "no," in and of themselves, cannot be interpreted as consent.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- Previous relationships or previous consents do not, by themselves, constitute consent to future sexual contact or activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- An existing sexual, romantic, or marital relationship does not, by itself, constitute consent.
- Prior sexual activity with other individuals does not imply consent.
- Consent cannot be procured, expressly or implicitly, by use of force, intimidation, threats, or **coercion**, as that term is defined below.
- An individual known to be—or who should be known to be—**incapacitated**, as defined below, cannot consent to sexual contact or activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- Consent can only be given if one is of legal age. In Minnesota, the legal age of consent is 16.

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

Incapacitation is the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the ingestion of alcohol or other drugs, incapacitation requires more than being under the

influence of alcohol or other drugs; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol and other drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the respondent or a reasonable, sober person in the respondent's position.

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

Unwelcome conduct occurs when the individual did not request or invite and regarded it as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that they welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that they object, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

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

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

Relevant evidence means evidence related to the allegations of Sex Discrimination under investigation in a complaint resolution process under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination occurred.

Impermissible evidence means the following types of evidence: (1) evidence that is protected under a privilege as recognized by Federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality; (2) a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of

treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the complaint resolution process; and (3) evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to provide consent to the alleged Sex-Based Harassment.

Credibility is in dispute when the decisionmaker must choose between competing narratives to resolve a complaint.

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

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

V. PROHIBITED CONDUCT

The University prohibits the following forms of Sex Discrimination: Non-Harassment Sex Discrimination (Differential Treatment, Retaliation, and Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions) and Sex-Based Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking), as each term is defined below. Aiding others in acts of Sex Discrimination also violates this Policy.

When the terms in Section IV. Definitions are used as part of the Prohibited Conduct definitions below, the above definitions apply.

A. Non-Harassment Sex Discrimination

i Differential Treatment

Differential Treatment is conduct on the basis of sex that excludes an individual from participation, denies the individual the benefits of, treats the individual less favorably, or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a program or activity.

Examples of Differential Treatment include:

- Giving prohibited consideration to an individual's sex in deciding whether to offer an applicant a job interview or an employee a promotion;
- Requiring that members of a particular sex meet higher standards for advancement or promotion;

- Denying a student the opportunity to participate in an educational activity because of his or her sex.

Differential Treatment includes discrimination on the basis of sex stereotypes, pregnancy or related conditions, sexual orientation, and gender identity.

ii Retaliation

Retaliation is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Encouraging or assisting others to engage in Retaliation or to interfere with the process are also considered Retaliation and violate this Policy.

The following acts are examples of conduct that may constitute Retaliation if done for the purpose of interfering with a right or privilege secured by Title IX or this Policy or because an individual has made a report or complaint or participated or refused to participate in a complaint resolution process: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process, including a live hearing; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation may be present against a person even when the person's allegations of Sex Discrimination are unsubstantiated.

iii Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions

Failure to Provide a Student Reasonable Modifications for Pregnancy and Related Conditions means failure to make reasonable modifications to University policies, practices, or procedures for a student's pregnancy or related condition as necessary to prevent Sex Discrimination and ensure equal access to the University's education program or activity.

Reasonable modifications are based on a student's individualized needs. Modifications that would fundamentally alter the nature of the University's education program or activity are not reasonable. Certain modifications may be reasonable in some circumstances but unreasonable in others depending on the particular course and other relevant circumstances.

B. Sex-Based Harassment

Sex-Based Harassment means sexual harassment and other harassment on the basis of sex, including on the bases of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that satisfies one or more of the following definitions:

i *Quid Pro Quo Harassment*

Quid Pro Quo Harassment occurs when an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity, including a student-employee, explicitly or implicitly conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

ii *Hostile Environment Harassment*

Hostile Environment Harassment is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity.

The following conduct, or other unwelcome sex-based conduct, may constitute Hostile Environment Harassment:

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

The circumstances that may be considered when determining whether conduct was so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity include, but are not limited to:

- The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred;
- Other Sex-Based Harassment in the University's education program or activity;
- Whether the conduct was merely a discourteous, rude, or insensitive statement; and
- Whether the speech or conduct deserves the protection of academic freedom.

iii Sexual Exploitation

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

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Taking of or distribution of photographs/images, video or audio recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without consent;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, genitals, buttocks, or breasts, or that is otherwise sexual in nature, without consent;
- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex) without consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Engaging in voyeurism without consent;
- Exposing one's genitals, buttocks, or breasts in non-consensual circumstances;
- Inducing another to expose his or her genitals, buttocks, or breasts in non-consensual circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without his or her knowledge and consent;
- Ejaculating on another person without consent;
- Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

While conduct may meet the definition of Sexual Exploitation and also be part of a finding of Hostile Environment Harassment, if the decisionmaker finds that conduct meets the definition of Sexual Exploitation or Hostile Environment Harassment, the decisionmaker generally will not separately analyze the same conduct under the other definition.

iv Sexual Assault

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

- Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Minnesota, the age of consent is 16.

Sexual Assault is also prohibited by Minnesota law. See Section XVIII. State Law Definitions below for applicable criminal law definitions.

v Domestic Violence

Domestic Violence includes a felony or misdemeanor crime committed by a person who (a) is a current or former spouse or intimate partner of the victim under the Minnesota family or domestic violence laws (or if the crime occurred outside of Minnesota, the jurisdiction in which the crime occurred), or a person similarly situated to a spouse of the victim, (b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner, (c) shares a child in common with the victim, or (d) commits acts against a victim who is protected from those acts under the Minnesota family or domestic laws.

While not exhaustive, the following are examples of conduct that can constitute Domestic Violence when committed by a current or former spouse or intimate partner of the victim or a person similarly situated to a spouse of the victim: (1) physical harm, bodily injury or assault; (2) the infliction of fear of

imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

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

Domestic Violence is also prohibited by Minnesota law. See Section XVIII. State Law Definitions below for applicable criminal law definitions related to Domestic Violence.

vi Dating Violence

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

Dating Violence is also prohibited by Minnesota law. See Section XVIII. State Law Definitions below for applicable criminal law definitions relating to Dating Violence.

vii Stalking

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

Stalking behavior may include, but is not limited to:

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

¹ Some instances of Stalking may not be on the basis of sex. This Policy prohibits all forms of Stalking, regardless of whether it is based on sex.

- Unreasonably obtaining personal information about the victim.

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

Stalking is also prohibited by Minnesota law. See Section XVIII. State Law Definitions below for applicable definitions of criminal stalking.

VI. STUDENT REQUESTING REASONABLE MODIFICATIONS FOR PREGNANCY AND RELATED CONDITIONS

The University will make reasonable modifications to the University's policies, practices, or procedures for a student's pregnancy and related conditions as necessary to prevent Sex Discrimination and ensure equal access to the University's program or activity. Students who want to request a reasonable modification due to pregnancy or a related condition should contact the Title IX Coordinator who will coordinate with the appropriate faculty or staff to evaluate and implement reasonable modifications. The Title IX Coordinator, appropriate faculty or staff and the student will engage in a good faith interactive process to identify appropriate reasonable modifications. Reasonable modifications are based on a student's individualized needs. Modifications that would fundamentally alter the nature of the University's education program or activity are not reasonable. Certain modifications may be reasonable in some circumstances but unreasonable in others depending on the particular course and other relevant circumstances.

Given the time sensitive nature of requests for reasonable modifications, a student must reach out to the Title IX Coordinator to request a reasonable modification and engage in a good faith interactive process to identify and implement reasonable modifications before seeking action under this Policy. If, after participating in a good faith interactive process with the Title IX Coordinator and the appropriate faculty or staff member, a student believes they have been denied reasonable modifications necessary to prevent Sex Discrimination and ensure equal access to the University's program or activity, they may file a complaint under this Policy.]

VII. ROMANTIC AND SEXUAL RELATIONSHIPS

Long-established standards of professional ethics discourage personal relationships of a romantic or sexual nature between persons who are in a supervisor-subordinate relationship at the university, especially between faculty or staff personnel and students. No non-academic or personal ties should be allowed to interfere with the academic integrity of the teacher-student relationship or the general integrity of the supervisor-subordinate working relationship at Saint Mary's University of Minnesota. With respect to sexual relationships, in particular, what might appear to be consensual, even to the parties involved, may, in fact, not be so due to the inherent differential in authority.

The University has adopted a Policy on Romantic and Sexual Relationships. Please consult the Student Handbooks or the Human Resources webpage for more information on the provisions of this policy.

VIII. CONFIDENTIALITY

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

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

A. Confidential Employees and External Confidential Resources

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

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

Confidential Resources Located On Campus

Jay Johnson Wellness Center – Counseling Services *

Elizabeth Martinka, MSW, LGSW
700 Terrace Heights
137 Hendrickson Center
Winona, MN 55987
emartink@smumn.edu
507-457-

*Provided through a contract with Winona Health

Jay Johnson Wellness Center – Health Services*

Hannah Degallier, PA-C
700 Terrace Heights
44 Mary's Hall
Winona, MN 55987
Hdegalli@smumn.edu
507-457-

*Provided through a contract with Winona Health

Other External Confidential Resources

The Advocacy Center of Winona

100 Latsch Square #201, Winona, MN 55987

<http://www.advocacywinona.org/>

507-452-4440, 507-452-4453 (24-hour hotline) – *Provides information, referrals, and advocates for victims of sexual assault*

Sexual Violence Center

2021 East Hennepin Avenue, Suite 418, Minneapolis, MN 55413

612-871-5111 - *Provides information, referrals, and advocates for victims of sexual assault*

Dodge, Filmore & Olmsted Counties Victim Services

151 4th St SE, Rochester MN 55904

507-289-0636/7270 - *Provides information, referrals, and advocates for victims of sexual assault*

National Domestic Violence Hotline 800-799-7233 (SAFE)

Rape, Abuse and Incest National Network 800-656-4673

Minnesota Coalition against Sexual Assault 651-209-9993

Please note that if a concern is reported only to a confidential employee or other external confidential resource and not to a non-confidential employee at the University, the University will be unable to provide certain supportive measures that would require involvement from the University (such as issuing a no-contact directive), conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential employee may later decide to make a complaint to the University or report the incident to local law enforcement.

B. Non-Confidential Communications

Non-confidential communications are those communications with any University employee who is not a confidential employee as identified above. Only confidential employees can promise confidentiality. All other University employees who become aware of information about conduct that reasonably may constitute Sex Discrimination are required to report the matter to the Title IX Coordinator. University employees who are not confidential employees will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most University employees cannot promise confidentiality, the University is committed to protecting the privacy of individuals involved in a report of Sex Discrimination and will take reasonable steps to protect the privacy of the parties and witnesses during the complaint resolution process. The University will not disclose personally identifiable information related to a report or complaint of Sex Discrimination, except in the following circumstances:

- To carry out the University's obligations under Title IX, including action taken to address conduct that may reasonably constitute Sex Discrimination and to carry out the complaint resolution process;
- When the University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- As required by Federal law, Federal regulations, or the terms and conditions of a Federal award; and
- As required by state or local law, when permitted by FERPA.

Allegations of policy violations will be considered private and will only be shared with other University employees on a need-to-know basis, as permitted by law. The allegations will not be shared with law enforcement without the consent of the individual who has alleged the Sex Discrimination, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 or the abuse or neglect of a vulnerable adult (see Section X.A.iii. Mandatory Reporting Concerning Minors and Vulnerable Adults below for more information) or unless compelled to do so pursuant to a subpoena or court order.

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

C. Requests for Confidentiality or Non-Action

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

In a situation in which the complainant requests that their name or other personally identifiable information not be shared with the respondent or that no action be taken against the respondent, or otherwise does not make a complaint of Sex Discrimination, the Title IX Coordinator will make a fact-specific determination considering the following factors:

- the complainant's request not to proceed with initiation of a complaint;
- the complainant's reasonable safety concerns regarding initiation of a complaint;
- the risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- the severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- the age and relationship of the parties, including whether the respondent is an employee of the University;
- the scope of the alleged discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- the availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its complaint resolution process; and
- other relevant factors.

If, after considering these factors, the Title IX Coordinator determines that: (1) the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or

(2) the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator will generally initiate a complaint. The Title IX Coordinator initiating a complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent.

If the Title IX Coordinator will be initiating a complaint, the Title IX Coordinator will notify the complainant before proceeding and will appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures. At the complainant's request, the Title IX Coordinator may communicate to the respondent that the complainant asked the University not to investigate and that the University determined it needed to do so. A complainant can choose not to participate in any complaint resolution process. In instances where the University moves forward with a complaint resolution process without the participation of the complainant, the complainant will have the same rights as provided to a complainant under this Policy.

Regardless of whether the Title IX Coordinator initiates a complaint, the University will take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University's education program or activity. However, the scope of the response by the University may be impacted or limited based on the nature of the complainant's request. The University will likely be unable to conduct an investigation into the particular incident or to pursue disciplinary action against the respondent and also maintain confidentiality.

D. Statistical Reporting and Clery Act Warning

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 and the Minnesota Office of Higher Education in a manner that does not include any personally identifying information about individual involved in an incident.

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

Publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. To ensure that a complainant's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator will describe the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify the complainant or respondent in the context of the incident report.

Minnesota law requires institutions to collect statistics, without inclusion of **any** personally-identifying information, regarding the number of reports of Sexual Assault received by an institution and the number of types of resolutions. Data collected for purposes of submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the complainant, persons whose work assignments reasonably require access, and, at the complainant's request, police conducting a criminal investigation. **Nothing** in this paragraph is intended to conflict with or limits the authority of the University to comply with other applicable state or federal laws.

E. Public Awareness Events

From time to time the University may hold public events to raise awareness about Sex-Based Harassment. Employees who attend a public awareness event on University campus or through an online platform are legally required to report information regarding Sex Discrimination, including Sex-Based Harassment, to the Title IX Coordinator. Because of this reporting requirement and to facilitate open discussion during public awareness events, University employees should not attend public awareness events held on campus or through an online platform sponsored by the University.

If the Title IX Coordinator is notified of conduct that reasonably may constitute Sex-Based Harassment that was shared at such a public awareness event, the University generally will not respond to the information, unless the Title IX Coordinator, in consultation with other appropriate University officials, determines the information indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons. Regardless, the University will use the information to inform its efforts to prevent Sex-Based Harassment.

F. Steps to Protect Privacy of Parties and Witnesses

The University does not prohibit the parties from obtaining and presenting evidence (including by speaking to witnesses), consulting with family members, confidential employees or external confidential resources, or advisors, or otherwise preparing for or participating in the complaint resolution process. However, the University is legally required to take reasonable steps to protect the privacy of the parties and witnesses during the complaint resolution process. Pursuant to this legal obligation, the University takes the steps described throughout this Policy to protect the privacy of the process. These steps include:

Prior to receiving access to the relevant and not otherwise impermissible evidence and investigation report, the parties and advisors (if any) are required to sign a non-disclosure agreement agreeing to use the evidence and investigation report only for purposes of participating in the complaint resolution process and not to disseminate or otherwise share the evidence or investigation report with any other individual. See Section XII.F.iii. Access to Relevant Evidence and Investigation Report below for more information.

The University prohibits parties and witnesses in a complaint resolution process from making widespread disclosures via social media or other media regarding the allegations or the complaint resolution process while the process is pending.

The University will take steps to address any unauthorized disclosure of information or evidence, including but not limited to taking disciplinary action. An allegation of a violation of this Section will be handled pursuant to Section XV. Complaints of Related Misconduct below.

IX. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEX DISCRIMINATION

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

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

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

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

X. REPORTING SEX DISCRIMINATION

A. Reporting to the University

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

Marisa Naryka, Ed.D.
Title IX Coordinator
2500 Park Avenue
138 Martin de Porres Hall
Minneapolis, MN 55404
TitleIX@smumn.edu
507-457-1781

Niki Peterson, M.S.
Deputy Title IX Coordinator
195 Griffin Hall
700 Terrace Heights
Winona, MN 55987
507-457-1403
npeterso@smumn.edu

Brian Kusek, M.A.
Deputy Title IX Coordinator
100 Saint Mary's Hall
700 Terrace Heights
Winona, MN 55987
507-457-1817
bkusek@smumn.edu

Becki Warnock, M.Ed.
Deputy Title IX Coordinator
Mother Teresa Hall 15
2500 Park Ave.
Minneapolis, MN 55404
612-238-4575
rwarnock@smumn.edu

Winona Campus Safety
507-457-1703

Twin Cities Campus Security
612-720-0417

Reports can be made by telephone, via email, via mail, in person, or online via the University's [Sexual Misconduct Reporting Form](#). Reports may be made at any time, including non-business hours by phone, email, mail, or the University's website.

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

Upon receiving a report of Sex Discrimination, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and to explain the process of making a complaint and the complaint resolution process. In addition, when a student or employee reports to the University that they have been a victim of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, whether the offense occurred on or off campus, the University will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures victims should follow.

If an individual has made a report to a University employee who is not a confidential employee and has not yet heard from the Title IX Coordinator, please report directly to the Title IX Coordinator.

i Employee Reporting Obligations

All University employees who are not confidential employees and who obtain or receive information about conduct that reasonably may constitute Sex Discrimination must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator. Certain student employees, such as resident assistants and peer ministers, always have a duty to report information they receive about Sex Discrimination to the Title IX Coordinator, even while not formally on duty.

Incidents that must be reported by University employees include:

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

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

Employees who receive such reports of Sex Discrimination should not attempt to “investigate” the allegation or require the complainant/reporting individual to provide all of the details surrounding the

alleged misconduct. To the extent the complainant/reporting individual provides details, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible Sex Discrimination, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken, consistent with the complaint resolution process and this Policy.

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

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

ii *Anonymous Reports*

The University will accept anonymous reports of Sex Discrimination. Reports may be filed anonymously using the University's [Sexual Misconduct Reporting Form](#). The University will likely be limited in its ability to investigate an anonymous report or take responsive action unless sufficient information is provided to enable the University to conduct a meaningful investigation. The individual making the report is encouraged to provide as much detailed information as possible.

iii *Mandatory Reporting Concerning Minors and Vulnerable Adults*

Any University employee who knows or has reason to believe a child is being maltreated or has been maltreated within the preceding three years on campus or University property or in connection with any University event, program, or activity must report it immediately to the Title IX Coordinator. In addition, as a mandatory reporter under Minnesota law, such individual must also immediately report the abuse or neglect to the local welfare agency or police department. Additional information regarding county offices can be found here: <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/contact-us/>. Additionally, any University employee who becomes aware of the abuse or neglect of a vulnerable adult on campus or University property or in connection with any University event, program, or activity must report it immediately to the Title IX Coordinator and to the state Adult Abuse Reporting Center at 1-844-880-1574.

B. Reports to Law Enforcement

Some types of Sex Discrimination prohibited by this Policy, such as Sexual Assault, Domestic Violence, Dating Violence, Stalking, and certain forms of Sexual Exploitation, also may constitute criminal conduct. Individuals who believe they may have been subjected to criminal sexual conduct are strongly encouraged to notify local law enforcement authorities, Winona Campus Safety, or Twin Cities Campus Security. If the individual requests, campus authorities will assist in notifying law enforcement

authorities. The University will, at the direction of law enforcement, provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with criminal conduct that violates this Policy. Individuals also have the option to decline to notify law enforcement.

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

If an individual would like to report criminal sexual conduct to law enforcement, please contact:

Emergency Law Enforcement Response: 911 (from anywhere)

City of Winona Police Department

911 or 507-457-6302

City of Minneapolis Police Department

911 or 311

City of Rochester Police Department

911 or 507-328-6800

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

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

Orders for Protection

Orders for protection, sometimes called protective orders or restraining orders, are legal orders issued by a state court that provide protection from domestic or family violence, stalking, harassment, or a sex offense. The Minnesota Judicial Branch is responsible for issuing orders for protection. A victim may seek an order for protection by going to the District Court in their county. See [Minnesota Statutes Section 518B.01, subd. 4.](#)

Additional information regarding seeking an order for protection can be found at:

<https://www.mncourts.gov/Help-Topics/Domestic-Abuse-and-Harassment.aspx>. Additionally, Violence Free Minnesota has a directory of domestic violence services and programs statewide at <https://www.vfmn.org/find-a-program>. The organization also has a 24-hour hotline for voice calls at 866-223-1111, or for texts at 612-399-9995.

Criminal No-Contact Orders

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

University No-Contact Directives

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

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

D. Crime Victims Bill of Rights

Pursuant to state law, victims of crime must be informed of their rights under the Crime Victims Bill of Rights. The following is a summary of crime victims' rights under Minnesota law.

When a crime is reported to law enforcement, victims have the right to:

- Request that their identity be kept private in reports available to the public;
- Be notified of crime victim rights and information on the nearest crime victim assistance program or resource;
- Apply for financial assistance for non-property losses related to a crime;
- Participate in prosecution of the case, including the right to be informed of a prosecutor's decision to decline prosecution or dismiss their case;
- Protection from harm, including information about seeking a protective or harassment order at no cost;
- Protection against employer retaliation for taking time off to attend protection or harassment restraining order proceedings; and
- Assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.

Victims of domestic abuse also have the right to terminate a lease without penalty. Victims of Sexual Assault have the right to undergo a confidential Sexual Assault examination at no cost, make a confidential request for HIV testing of a convicted felon, and are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. In cases of domestic abuse and violent crime where an arrest has been made, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency.

Complete information about crime victims' rights can be found at:

<https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>

Information about victims' rights is also available from the Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs, and in Minnesota Statutes Chapter 611A.

E. Amnesty

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

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

F. Emergency Removal

The University reserves the right to remove a student respondent, in whole or in part, from the University's education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the University will undertake an individualized safety and risk analysis and will determine that an imminent and serious threat to the health or safety of any student, employee or other individual arising from the allegations of Sex Discrimination justifies removal. If a student respondent is removed on an emergency basis, the University will provide the student

respondent with notice and an opportunity to challenge the decision immediately following the removal.

G. Administrative Leave

The University reserves the right to place an employee respondent on administrative leave during the pendency of the complaint resolution process.

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

XI. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS

When the University receives a complaint of an alleged violation of this Policy, the University will promptly and equitably respond to the complaint in accordance with the provisions and procedures set forth below. The University will provide a prompt, fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides complainant an opportunity to file a complaint alleging a violation of this Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and, when credibility is in dispute and relevant to evaluating the allegations, provides a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility. In matters when credibility is in dispute and relevant to evaluating the allegations, the process for enabling the decisionmaker to assess a party's or witness's credibility differs depending on the allegations and identities of the parties, as is further described below.

Each complaint resolution process will require an objective evaluation of all relevant and not otherwise impermissible evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden to conduct an investigation that gathers sufficient evidence to determine whether Sex Discrimination occurred rests on the University and not on the parties.

The University will not use impermissible evidence or questions seeking impermissible evidence, as defined above.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sex Discrimination that is alleged and the status of the parties involved. The General Grievance Procedure described below applies to: (1) allegations of Non-Harassment Discrimination involving one or more individuals as the respondent and (2) allegations of Sex-Based Harassment where neither party is a student. The Heightened Grievance Procedure described below applies to allegations of Sex-Based Harassment involving at least one student party. In matters involving a student-employee,

whether an individual is considered a student or an employee for the purpose of determining which grievance procedure applies will be determined on a case-by-case basis considering: (1) whether the party's primary relationship with the University is to receive an education; (2) whether the alleged Sex-Based Harassment occurred while the party was performing employment-related work; and (3) other relevant factors at the University's discretion. When a complaint of Sex Discrimination alleges that a University policy or practice discriminates on the basis of sex, the University is not considered a respondent and the University has discretion to follow a different process as determined appropriate at the University's discretion.

If a complaint includes both an allegation that implicates the General Grievance Procedure and an allegation that implicates the Heightened Grievance Procedure, the University reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

A. Trained, Impartial Officials

Each complaint resolution process will be conducted by individuals, including coordinators, investigators, decisionmakers, any person who facilitates an informal resolution process, persons with authority to modify or terminate supportive measures, and any other person responsible for implementing the grievance procedure, who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent. Additionally, all individuals involved in the complaint resolution process will receive training as described below in Section XIV.B. Training for Individuals with Heightened Responsibilities.

B. Equal Rights of the Complainant and Respondent

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

- Respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- Written explanation of available resources;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt and impartial complaint resolution process conducted by officials who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and defenses and an opportunity to respond;

- Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the complaint resolution process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sex Discrimination;
- An equal opportunity to access the evidence that is relevant to the allegations of Sex Discrimination and not otherwise impermissible, as set forth in Section XII.F.iii. Access to Relevant Evidence and Investigation Report below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so;
- The right to be free from Retaliation as defined in this Policy;
- For the respondent, the right to not be subject to discipline for Sex Discrimination prior to the conclusion of a formal or informal resolution process as set forth in this Policy;
- The right to assistance of campus personnel (during and after the complaint process), in cooperation with the appropriate law enforcement authorities, in shielding the complainant or respondent, at their request, from unwanted contact with the complainant or respondent, including but not limited to a no-contact order issued by the University, transfer to alternative classes or to alternative University-owned housing (if alternative classes or housing are available and feasible), change in work location or schedule, or reassignment (if available and feasible); and to receive assistance with academic issues;
- The right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding; and
- The right to be provided access to their description of the incident, as it was reported to the University, including if the individual transfers to another post-secondary institution, subject to compliance with FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident should be made to the Title IX Coordinator.

C. Additional Rights in Cases Implicating the Heightened Grievance Procedure

In cases under the Heightened Grievance Procedure (allegations of Sex-Based Harassment involving at least one student party), the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section XI.E. Right

to an Advisor below for additional information and requirements regarding the conduct of advisors.

- The parties will have the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting or proceeding. Additional persons will only be permitted to be present if required by law.
- The complaint resolution process will include a live hearing, at which each party may propose questions and follow-up questions the party wants asked of any party or witness. At the live hearing, the decisionmaker will consider the proposed questions and follow-up questions and will ask any relevant and not otherwise impermissible questions of the parties and witnesses, as set forth in Section XII.F.iv. Live Hearing below.
- The complainant has the right to decide when to repeat a description of an incident of Sex-Based Harassment, and the respondent has the right to decide when to repeat a description of a defense to such allegations.

D. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking

In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section E. Right to an Advisor below for additional information and requirements regarding the conduct of advisors.
- The complainant has the right to decide when to repeat a description of an incident of Sexual Assault, Domestic Violence, Dating Violence, or Stalking, and the respondent has the right to decide when to repeat a description of a defense to such allegations.
- The parties have the right to timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present.

In addition, a complainant who alleges Sexual Assault, Domestic Violence, Dating Violence, and Stalking has the following rights:

- To be informed by the University of options to notify proper law enforcement authorities of an incident of Sexual Assault, Domestic Violence, Dating Violence, or Stalking, and the right to report to law enforcement at any time or to decline to notify such authorities;
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying the appropriate law enforcement officials and University officials of a Sexual Assault,

Domestic Violence, Dating Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Domestic Violence, Dating Violence, and Stalking cases;

- The right to the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident;
- Not to be treated by campus authorities in a manner that suggests that they are at fault for the Sexual Assault or that they should have acted in a different manner to avoid the Sexual Assault;
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault advocacy, Dating Violence, Domestic Violence, or Stalking services; and
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of Sex-Based Harassment at the institution to which the student is transferring.

E. Right to an Advisor

The complainant and the respondent in a complaint resolution process involving allegations of (1) Sex-Based Harassment with at least one student party (the Heightened Grievance Procedure) or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking where neither party is a student, have the right to be accompanied to meetings by an advisor of their choice, who may be, but is not required to be, an attorney. If a member of the University community is serving as an advisor, the advisor should generally be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process.

Guidelines and requirements for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings throughout the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meetings, which may occur in-person. As a general matter, the University will not delay its process to accommodate the schedules of advisors.
- Advisors may confer with their advisee but advisors may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the University. The advisor may not communicate directly with the investigator, decisionmaker, appeal officer, the Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.

- Advisors may have access to information as is described further below in Section XII.F.iii. Access to Relevant Evidence and Investigation Report.
- Individuals involved in the process other than a complainant or respondent, such as witnesses, generally will not be allowed to have an advisor present absent special circumstances as allowed by law.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify the Title IX Coordinator who they have selected as their advisor. Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor.
- The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor and will indicate whether the other party's advisor is an attorney.

F. Requests for Reasonable Accommodations

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

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

G. Supportive Measures

After receiving a report of alleged Sex Discrimination, the Title IX Coordinator will consider whether supportive measures are appropriate to (1) restore or preserve a party's access to the University's education program or activity, including measures designed to protect the safety of the parties or the University's educational environment; or (2) provide support during the University's formal or informal resolution process. Such supportive measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such measures will not unreasonably burden the complainant or respondent and will not be for punitive or disciplinary reasons.

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

Examples of possible supportive measures may include, without limitation:

- Establishing a "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing an individual's on-campus residency, dining, or transportation arrangements;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Leaves of absence;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Increased security and monitoring of certain areas of campus;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Training and education programs related to Sex-Based Harassment;
- Making information about protective orders and criminal no contact orders available and providing assistance with respect to obtaining and enforcing such orders;
- Assistance in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services, legal assistance, visa and immigration assistance, and student financial aid;
- For students who choose to transfer to another institution, at the student's request, providing information about resources for victims of Sexual Assault at the institution to which the student is transferring.

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

To request an accommodation or supportive measure, individuals should contact the Title IX Coordinator. Individuals also should contact the Title IX Coordinator to request modification or termination to an accommodation or supportive measure if circumstances change materially.

The University will maintain as confidential any supportive measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures. The University will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The University will inform the individual before sharing personally identifying information that the University believes is necessary to provide an accommodation or protective measure. The University will tell the individual which information will be shared, with whom it will be shared, and why it will be shared. If the individual is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the Student Success Office to determine how to comply with Section 504 of the Rehabilitation Act of 1973 in the implementation of supportive measures.

The University may, as it determines appropriate, continue, modify, or terminate supportive measures at the conclusion of the formal or informal resolution process or following other material changes in circumstance.

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

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

Opportunity to Seek Modification of Supportive Measures

A complainant or respondent may seek modification or reversal of the Title IX Coordinator's decision to provide, deny, modify, or terminate supportive measures available to that party. To seek modification or reversal, the party must submit an objection, in writing, to the Vice President for Student Development (student) or the Assistant Vice President for Human Resources (employee), within two (2) calendar days of the Title IX Coordinator communicating the applicable decision regarding the supportive measure.

The Dean of the College will review the party's concern and determine whether the Title IX Coordinator's decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures.

H. Non-Participation and Silence

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the University may still proceed with the complaint resolution process and make a determination based upon the information available. If at any time the complainant declines to participate in the process, the University's ability to meaningfully investigate and adjudicate a complaint may be limited. In such cases, the University may proceed with the complaint resolution process and make a determination based upon the information available. The respondent also has the right to decline to participate in the complaint resolution process. In such cases, the University may proceed with the complaint resolution process and make a determination based upon the information available. A complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Similarly, a respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed.

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

The decisionmaker will not draw an inference about the determination regarding responsibility based solely on a party's lack of participation or refusal to answer questions during the complaint resolution process. However, the decisionmaker may consider a party's or witness's refusal to answer one or more questions when determining how much weight to give the party's or witness's statements.

I. Obligation to Act in Good Faith

Reports and complaints of alleged Sex Discrimination should be made only in good faith.

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

J. Obligation to Be Truthful

All parties and witnesses have an obligation to be truthful in this process. Comments or actions intended to influence other individuals to not be truthful in the complaint resolution process also violate this Policy. A determination as to whether Sex Discrimination occurred, alone, is not a sufficient basis to find that a party, witness, or others participating in the complaint resolution process violated the obligation to be truthful. An allegation that a person has violated the obligation to be truthful will be handled through the procedures identified in Section XV. Complaints of Related Misconduct below.

K. Conflicts of Interest and Bias

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

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

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

L. Time Frames for Resolution

The University is committed to the prompt and equitable resolution of allegations of Sex Discrimination. As is discussed in more detail above and below, this Policy provides different procedures depending on the particular circumstances of a case, including the type of Sex Discrimination that is alleged and the status of the parties involved. The time frames for each phase of the different procedures are as follows:

i General Grievance Procedure (Allegations of Non-Harassment Sex Discrimination and Allegations of Sex-Based Harassment Where Neither Party Is a Student)

Specific time frames for each phase of the complaint resolution process for complaints involving allegations of Non-Harassment Sex Discrimination and allegations of Sex-Based Harassment where neither party is a student are set forth in Section XII. Procedures for Sex Discrimination Complaint Resolution below. Each phase of the process will generally be as follows:

- Review of complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Decisionmaker review of preliminary investigation report, meetings with parties and witnesses (if applicable), and issuance of investigation report: twenty-one (21) calendar days

- Review of relevant and not otherwise impermissible evidence and investigation report and written response: appropriate timeframe is determined on a case-by-case basis
- Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

ii *Heightened Grievance Procedure (Allegations of Sex-Based Harassment Involving At Least One Student Party)*

Specific time frames for each phase of the complaint resolution process for complaints involving allegations of Sex-Based Harassment involving at least one student party are set forth in Section XII. Procedures for Sex Discrimination Complaint Resolution below. Each phase of the process will generally be as follows:

- Review of complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Review of relevant and not otherwise impermissible evidence and investigation report and written response: appropriate timeframe is determined on a case-by-case basis
- Live Hearing (if applicable) and Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

In any Sex Discrimination complaint resolution process, the process may include additional days between these phases as the University transitions from one phase to another.

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

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

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

made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

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

M. Presumption of Non-Responsibility

The presumption is that the respondent is not responsible for a policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a policy violation only if the appointed decisionmaker concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sex Discrimination.

N. Application of Policy

When the University receives a complaint of a violation of this Policy, the University will generally apply the prohibited conduct definitions from the policy that was in effect at the time of the alleged prohibited conduct.

For prohibited conduct alleged to have occurred from August 14, 2020 to July 31, 2024, the University will conduct a grievance procedure that complies with the regulatory requirements in place during that time period. For conduct alleged to have occurred outside of that time period, the University will generally apply the complaint resolution procedures that are in effect at the time the complaint is made.

O. Reservation of Flexibility

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

In instances where a complaint is made against an individual who is not a student or employee of the University, in instances when the alleged conduct took place outside of the United States, and in instances when the conduct alleged, if true, would meet only the Sexual Exploitation definition and not any other Prohibited Conduct definitions in this Policy, the University reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

XII. PROCEDURES FOR SEX DISCRIMINATION COMPLAINT RESOLUTION

When the University receives a complaint of potential Sex Discrimination, the University will promptly and equitably respond pursuant to the guidelines and procedures set forth below.

As discussed above in Section XI. General Provisions for Complaint Resolution Process different procedures apply to the complaint resolution process depending on the particular circumstances of a case, including the type of Sex Discrimination that is alleged and the status of the individuals involved. Further information about the different procedures is provided below.

A. Initial Meeting Between Complainant and Title IX Coordinator

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

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

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

The Title IX Coordinator will assess any report or complaint received to determine the applicable University policy, if any. If the alleged conduct, if true, would not be a violation of this Policy, but would violate another University policy, the Title IX Coordinator will generally refer the matter to another applicable disciplinary procedure. The Title IX Coordinator also has discretion to take no further action if it is determined that the alleged conduct, if true, would not violate any University policy.

B. Complaint and Notice of the Allegations

The filing of a complaint typically begins the complaint resolution process under this Policy. Generally, the complainant files a complaint with the Title IX Coordinator. However, as is discussed further above in Section VIII.C. Requests for Confidentiality or Non-Action, in some cases, the University may move forward with a complaint resolution process even if the complainant chooses not to make or move forward with a complaint. Additionally, complaints of Non-Harassment Sex Discrimination may be brought by any student, employee, or other person who was participating or attempting to participate in the University's education program or activity at the time of the alleged discrimination.

Complaints of Sex Discrimination should be made through the Title IX Coordinator.

As discussed above, when the Title IX Coordinator has received a complaint, the Title IX Coordinator will assess the complaint to determine if it states any allegations of Sex Discrimination. If the complaint alleges Sex Discrimination, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include:

- Notice of the University's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sex Discrimination, and the date and location of the alleged incident, if known;
- A statement that Retaliation is prohibited;
- A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence;
- A statement that the respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the complaint resolution process;
- A statement that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- In matters where each party is permitted to have an advisor as described in Section XI.E. Right to an Advisor above, a statement that parties may have an advisor of choice and that advisor may be, but is not required to be, an attorney;
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including in Section XI.J. Obligation to Be Truthful above.

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

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

When the Title IX Coordinator has received a complaint of Sex Discrimination, the Title IX Coordinator will also meet with the respondent and will:

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

This stage of initial review of the complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days. In some cases, more time may be required. If the University has reasonable concerns for the safety of any person as a result of providing the notice of allegations to the parties, the University may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately.

C. Investigation of Other University Policy Violations

If a complaint of Sex Discrimination also implicates alleged violations of other University policies, the Title IX Coordinator, in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged Sex Discrimination and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the Sex Discrimination complaint. Where the Title IX Coordinator, in coordination with other appropriate school officials, determines that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violation will be evaluated under the applicable policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the adjudication of the alleged Sex Discrimination.

Note that individuals who make a good faith report of Sex Discrimination, and individuals who participate in a Sex Discrimination complaint resolution process, will not be disciplined by the University

for certain violations of University policies in which they might have engaged in connection with the reported incident, consistent with Section X.D. Amnesty above.

D. Consolidation of Complaints

The University reserves the right to consolidate complaints into one complaint resolution process as to allegations of Sex Discrimination against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Sex Discrimination arise out of the same facts or circumstances. If one of the complaints to be consolidated is a complaint implicating the Heightened Grievance Procedure, the Heightened Grievance Procedure will apply to the consolidated complaint resolution process. When more than one complainant or more than one respondent is involved in a matter, references in this Policy to a party, complainant, or respondent include the plural, as applicable.

E. Informal Resolution Process

At any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process. In cases involving allegations of Sexual Assault or more serious Sex Discrimination, informal resolution may not be appropriate.

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

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

Prior to engaging in an informal resolution process, the University will provide the parties with a written notice disclosing: the allegations; the requirements of the informal resolution process; that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the formal resolution process; that the parties' agreement to a resolution at the

conclusion of the informal resolution process would preclude the parties from initiating or resuming a formal resolution process arising from the same allegations; the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and what information the University will maintain and whether and how the University could disclose such information for use in the complaint resolution process if those procedures are initiated or resumed. In addition, the University will obtain the parties' voluntary, written consent to the informal resolution process.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the University to stop, remedy, and prevent policy violations. Informal resolution may involve the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the University. Examples of potential remedies are provided above in Section XI.G. Supportive Measures. The proposed resolution may also include other institutional responses, requirements, or sanctions imposed on the respondent, including but not limited to restrictions on contact and restrictions on the respondent's participation in one or more of the University's programs or activities or attendance at specific events.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the University terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the complaint and the University agree in writing to the terms and conditions of a proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the complaint and the University do not agree in writing to the terms and conditions of the proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the complaint will generally be referred to the formal resolution process.

Appeals are not allowed in cases where the parties have agreed to an informal resolution of the matter.

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

If the University facilitates an informal resolution process, the Title IX Coordinator will also take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University's education program or activity.

F. Formal Resolution Process

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

i *Investigation*

The Title IX Coordinator will designate one or more investigators to conduct an adequate, reliable, and impartial investigation. When more than one investigator is appointed, references in this Policy to an investigator include the plural, as applicable.

The University will ensure that the investigator has received the appropriate training, is impartial, and is free of any conflict of interest or bias for or against complainants and respondents generally and for or against the complainant and respondent in the case. The University reserves the right to appoint any trained investigator who is free of conflict of interest or bias, including a third-party investigator. The parties will receive written notice of the investigator appointed. If any party has a concern that the investigator has a conflict of interest or bias, the party should report the concern in writing as indicated in Section XI.K. Conflicts of Interest and Bias above.

The investigator will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include audio-recorded interviews with the complainant, the respondent, and any witnesses. The complainant and respondent will have an equal opportunity to advise the investigator of any witnesses they believe should be interviewed, other inculpatory and exculpatory evidence they believe should be reviewed by the investigator, and questions they believe the investigator should ask the other party or witnesses, including questions challenging credibility. In cases under the Heightened Grievance Procedure (allegations of Sex-Based Harassment involving at least one student party), any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary circumstances exist as determined by the decisionmaker, in consultation with the Title IX Coordinator.

The investigator, in consultation with the Title IX Coordinator, has discretion to assess the relevancy of any proposed witnesses, evidence, and questions, and to determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The investigator may also decline to ask a question or questions suggested by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available.

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

General Grievance Procedure

For matters under the General Grievance Procedure, the investigator generally will compile a preliminary investigation report for the decisionmaker's review in determining whether credibility is in dispute and relevant to evaluating one or more allegations in the complaint. The preliminary investigation report will fairly summarize the relevant and not otherwise impermissible evidence and, at the investigator's discretion, may include, as applicable: the complaint; the notice of allegations; any other relevant and not otherwise impermissible evidence obtained during the investigation; and the investigator's report of the investigation.

Heightened Grievance Procedure

For matters under the Heightened Grievance Procedure, the investigator generally will compile an investigation report that fairly summarizes the relevant and not otherwise impermissible and, at the investigator's discretion, may include, as applicable: the complaint; the notice of allegations; any other relevant and not otherwise impermissible evidence obtained during the investigation; and the investigator's report of the investigation.

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

The University will strive to complete the investigation within (i) fifty (50) calendar days from the date the investigator is appointed or (ii) if, after the date the investigator is appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, fifty (50) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case.

ii Decisionmaker Review and Individual Meetings (General Grievance Procedure Only)

In cases under the General Grievance Procedure (allegations of Non-Harassment Sex Discrimination and allegations of Sex-Based Harassment where neither party is a student), at the conclusion of the investigation, the Title IX Coordinator will designate a decisionmaker to complete a prompt and equitable adjudication. Typically, a single decisionmaker will be appointed to each case. The University reserves the right to appoint additional decisionmakers at its discretion. References in this Policy to a decisionmaker include the plural, as applicable. The University reserves the right to appoint any trained decisionmaker who is free from conflict of interest or bias, including third-party decisionmakers. If any party has a concern that the decisionmaker has a conflict of interest or bias, the party should report the concern in writing as indicated in Section XI.K. Conflicts of Interest and Bias above.

The decisionmaker will review the preliminary investigation report to determine whether credibility is in dispute and relevant to evaluating one or more allegations in the complaint.

If the decisionmaker determines credibility is not in dispute or is not relevant to evaluating any allegations in the complaint, the matter will proceed to the next phase as described below in Section XII.F.iii. Access to Relevant Evidence and Investigation Report.

If the decisionmaker determines credibility is in dispute and relevant to evaluating one or more allegations in the complaint, the decisionmaker will conduct individual meetings with each party and witness whose credibility is relevant and will ask questions to adequately assess each individual's credibility.

In cases where the decisionmaker conducts individual meetings, the preliminary investigation report will be updated to reflect the information obtained during those meetings. The Title IX Coordinator will review the investigation report and has the discretion to ask the investigator for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report.

The University generally will strive to complete the decisionmaker review of the preliminary investigation report, questioning of parties and witnesses (if applicable), and issuing the investigation report within twenty-one (21) calendar days from the date the decisionmaker receives the preliminary investigation report. This time frame may be extended depending on the circumstances of each case.

iii Access to Relevant Evidence and Investigation Report

The parties will have an equal opportunity to access: (1) the evidence that is relevant to the allegations of Sex Discrimination and not otherwise impermissible and (2) the investigation report. In cases involving allegations of (1) Sex-Based Harassment with at least one student party (the Heightened Grievance Procedure) or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking where neither party is a student, each party's advisor will also receive access to the evidence that is relevant to the allegations and not otherwise impermissible and to the investigation report. The Title IX Coordinator will provide access to such evidence and the investigation report to each party and advisor, if applicable, in electronic format. The parties will have a period to review the evidence and investigation report and prepare a written response to the evidence (the "Written Response Statement"). The Title IX Coordinator will determine a reasonable time period for the review and response period and a reasonable word limit for the Written Response Statement on a case-by-case basis considering the complexity of the allegations and volume of the evidence and investigation report, among other relevant factors. The Title IX Coordinator will communicate the deadline and word limit for the Written Response Statement when the parties receive access to the evidence and the investigation report.

The Written Response Statement may be used as an opportunity to clarify information contained in the relevant and not otherwise impermissible evidence and investigation report, to identify evidence previously provided to the investigator that was not included in the relevant and not otherwise impermissible evidence or investigation report which the party believes is relevant, and to respond to evidence submitted by the other party or witnesses. While the parties in a Heightened Grievance Procedure and employees in a case involving allegations of Sexual Assault, Domestic Violence, Dating

Violence, and Stalking may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties and parties' advisors (if applicable) may use the evidence and investigation report reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence or investigation report with any other individual. Prior to being provided the relevant and not otherwise impermissible evidence and investigation report, the parties and parties' advisors (if applicable) will be required to sign a non-disclosure agreement agreeing to such terms. The University will take steps to address any unauthorized disclosure of information or evidence obtained solely through the complaint resolution process which may include but is not limited to disciplinary action. See Section XV. Complaints of Related Misconduct below.

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

iv Live Hearing (Heightened Grievance Procedure Only)

In matters under the Heightened Grievance Procedure (allegations of Sex-Based Harassment involving at least one student party), the Title IX Coordinator will designate a panel which will generally consist of three individuals to serve as the decisionmaker. References in this Policy to a decisionmaker include the plural, as applicable. The University reserves the right to appoint any trained individual who is without conflict or bias as decisionmaker, including third-party decisionmakers. If any party has a concern that a decisionmaker has a conflict of interest or bias, the party should report the concern in writing as indicated in Section XI.K. Conflicts of Interest and Bias above.

The Title IX Coordinator will compile the adjudication file including the investigation report and attachments and other information at the Title IX Coordinator's discretion.

The decisionmaker will review the adjudication file to determine whether credibility is in dispute and relevant to evaluating one or more allegations in the complaint.

If the decisionmaker determines credibility is not in dispute or is not relevant to evaluating any allegations in the complaint, the matter will proceed to the determination phase described below in Section XII.F.v. Determination.

If the decisionmaker determines credibility is in dispute and relevant to evaluating one or more allegations in the complaint, the decisionmaker will conduct a live hearing.

At the live hearing, each party may propose questions the party wants asked of any party or witness. The decisionmaker will determine whether each proposed question is relevant and not otherwise impermissible. If the question is relevant and not otherwise impermissible, the decisionmaker will ask the question of the party or witness, unless the question is unclear or harassing of the party or witness being questioned. The decisionmaker will explain any decision to exclude a question as not relevant or otherwise impermissible. If the decisionmaker determines a question is unclear or harassing, the decisionmaker will give the party an opportunity to clarify or revise the question. If the party sufficiently clarifies or revises a question so that the question is relevant and not otherwise impermissible and not unclear or harassing, the decisionmaker will ask the question.

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

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

Additional procedures for the live hearing will be provided to the parties in advance of a live hearing. Please contact the Title IX Coordinator for more information.

v Determination

The decisionmaker will evaluate the relevant and not otherwise impermissible evidence for its persuasiveness. In matters under the General Grievance Procedure, this will include the investigation report and attachments, including information gathered at the decisionmaker meetings (if any), and other information at the Title IX Coordinator's discretion provided to the decisionmaker. In matters under the Heightened Grievance Procedure, this will include the investigation report and attachments, the information gathered during the live hearing (if any), and other information at the Title IX Coordinator's discretion provided to the decisionmaker. The decisionmaker may, in their discretion, request additional information from the investigator or another appropriate individual, request additional investigation by the investigator, schedule additional decisionmaker meetings with one or more parties or witnesses for the purpose of assessing credibility (if applicable), or schedule an additional live hearing for the purpose of assessing credibility (if applicable). If additional information is shared with or gathered by the decisionmaker, the parties will be notified and provided access to that information.

The decisionmaker will apply the preponderance of the evidence standard to determine whether it is more likely than not that the respondent engaged in a violation of the policy. The presumption is that the respondent is not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the decisionmaker concludes that there is sufficient evidence, by a “preponderance of evidence,” to support a finding that the respondent engaged in Sex Discrimination.

The decisionmaker will not draw an inference about the determination regarding responsibility based solely on a party’s lack of participation or refusal to answer questions in the complaint resolution process. However, the decisionmaker may consider a party’s or witness’s refusal to answer one or more questions when determining how much weight to give the party’s or witness’s statements.

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

If the decisionmaker determines that the respondent is responsible for a policy violation, the decisionmaker typically will then determine what sanctions and remedies are warranted. The Title IX Coordinator has discretion to appoint a different sanctioning officer as he or she determines appropriate. The University reserves the right to appoint any trained sanctioning officer who is free from conflict of interest or bias, including third-party sanctioning officers. As part of that determination of sanctions/remedies, the Title IX Coordinator may, in his or her discretion, provide the decisionmaker/sanctioning officer with information regarding previous violations of this Policy or other University policies by the respondent, if any. If such information is shared with the decisionmaker/sanctioning officer, the parties will be notified and provided access to that information.

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

vi Sanctions and Remedies

The decisionmaker or sanctioning officer will impose sanctions and/or remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The University reserves the right to take whatever measures it deems necessary in response to an allegation of Sex Discrimination in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other University community members and to ensure that Sex Discrimination does not continue or recur within the education program or activity. These measures may be both remedial (designed to address a complainant’s safety and well-being and continued access to educational or workplace opportunities) and/or sanctions (involving action against a respondent). Not all forms of Sex Discrimination will be deemed to be equally serious offenses, and the University reserves the right to impose different

sanctions depending on the severity of the offense. The University also reserves the right to impose different sanctions if the respondent has previously been found responsible for a violation of University policy.

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

Sanctions for Students:

- **Statement of Concern.** A statement to students who are found in the presence of a policy violation, but who are not held formally accountable for that violation.
- **Warning.** A notification that a student has committed certain violations and that continuance of such conduct will result in more severe disciplinary action.
- **Educational Sanctions.** Sanctions include, but are not limited to, alcohol education, mandatory counseling assessment and adherence to professional counseling recommendations, research papers or projects, residence hall programming, group education program, etc.
- **Behavioral Contract.** A contract allowing a student to successfully manage their behavior while remaining an active member of the University community. Failure to complete the agreed-upon provisions of the contract may result in suspension from the University, unless the student voluntarily withdraws. If suspended or withdrawn, the student must follow the readmission process outlined in the University Catalog before they may resume their studies at the University.
- **Administrative Hold on Student Accounts.** A sanction used when students fail to comply with assigned tasks from a conduct hearing or Title IX investigation. This action precludes students from registering for classes and obtaining such documents as transcripts and diplomas. Once the outstanding sanction has been satisfactorily completed, the hold will be lifted.
- **Disciplinary Service.** Service hours in a given area as a way to give back to the campus or local community.
- **Fine/Restitution.** A monetary penalty for violations such as vandalism or damage to university property or the property of others. All fines must be paid by personal or cashier's check; they will not be applied to a student's account.
- **University Restriction.** Restriction from certain buildings, events, activities, etc.
- **University Housing Restriction.** Residence reassignment, removal from University housing, or restrictions on where a student may live.
- **No Trespass or No-Contact Directives.**
- **Conditions Upon Presence on Campus or at University Events.**
- **Removal or Non-Renewal of Scholarships or Honors.**
- **Temporary or Permanent Revocation of Degree.**
- **Revocation of Admission to the University.**

- **Disciplinary Probation.** A specified period of time during which a student is not in good disciplinary standing with the University.
- **Administrative Withdrawal.** Withdrawal from a specific course, major, or academic department where a student or group of students violates expectations of the academic arena (classroom incivility, disruption, harassment of faculty or other students in the classroom).
- **Deferred Suspension.** A sanction for students who have been held responsible for behavior that warrants suspension but where mitigating circumstances and additional sanctions may allow a student to remain in the community while these sanctions are being completed. Failure to complete any of the additional expectations by the stated deadlines may lead to the immediate implementation of suspension without further hearing. In addition, if a student is found responsible for any further university policy violations, at a minimum, the student may be recommended for suspension.
- **Suspension.** Denial of the opportunity to continue at the University for a specified period of time, or indefinitely until the student's intervening record can support an application for readmission. While suspended, a student is not allowed to be on campus or to attend any official University event. In the event that additional sanctions are imposed in conjunction with the suspension, these sanctions will most likely be expected to be completed prior to an application for readmission to be considered. The student may be placed on probationary status following completion of suspension.
- **Dismissal.** Denial of the opportunity to continue as a student at the university. A student who has been dismissed is not eligible to apply for readmission. A student who is dismissed is not allowed to be on campus or to be at any official university event at any time.
- **Loss of Privileges.** Loss of privileges such as removal of services and access to facilities, restriction of use of campus financial accounts and/or student activity fee funding, attendance or participation in activities/programs, loss of housing privileges, loss of athletic opportunities, etc.

Sanctions for Employees or Employee Groups

For employees, the sanction may include any form of responsive action or progressive discipline as set forth in the Employee Handbook, including:

- training;
- referral to counseling;
- warning;
- reprimand;
- conditions upon presence on campus or at University events;
- no trespass or no-contact directives;
- temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;

- suspension of promotion and salary increases with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- reassignment or removal from an elected or appointed position;
- temporary suspension without pay;
- transfer or change of job or responsibilities;
- formal censure;
- non-renewal of contract;
- demotion; and/or
- termination of employment.

Sanctions for Faculty or Faculty Groups

For faculty, appropriate sanctions may include but are not limited to:

- warning;
- reprimand;
- relevant training;
- referral to counseling;
- conditions upon presence on campus or at University events;
- no trespass or no-contact directives;
- temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- loss of salary or benefit such as sabbatical or research or travel funding;
- suspension of promotion and salary increases with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- formal censure;
- demotion;
- suspension or withdrawal of faculty privileges with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- removal from certain responsibilities (e.g., supervising employees);
- paid leave or unpaid leave;
- non-renewal of contract;
- reassignment or removal from an elected or appointed position;
- termination of tenure; and/or
- termination of employment

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving Sex

Discrimination, the organization may be sanctioned. Sanctions to the club/organization may include, but are not limited to:

- **Club/Organizational Notification.** Written or verbal notification to club or organization representatives, officers or advisers.
- **Social Probation.** Probationary status during which time a club/organization is restricted from participating in social events, including hosting as an organization.
- **Loss of University Privileges.** This includes, but is not limited to, prohibition on the club/organization's participation in certain activities and the use of University facilities.
- **Educational Requirements for Club/Organization Members.**
- **Required Additional Oversight of Club/Organization Activities.**
- **Temporary Loss of Funding and/or Loss of Recognition by the University.**
- **Probation of Student Club/Organization.** Probationary status for a specified period during which time a club/organization will be required to fulfill specific conditions before reinstatement to good standing.
- **Suspension of Student Club/Organization.** Separation from the University for a specified period. Involves loss of all rights and privileges of student clubs/organizations, including the use of University facilities, and probationary status following completion of suspension.
- **Termination of Student Organization.** Permanent separation of a student club/organization from the University and removal of recognition of the club/organization.

Sanctions to the club/organization may be imposed in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

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

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

- A mutual or one-sided no-contact directive;
- Prohibiting an individual involved from being on University property;
- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's on-campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a University residence;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;

- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no-contact orders available to a complainant; and/or
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the University community include but are not limited to increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad-based educational programming or training for relevant persons or groups.

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

vii Notice of Determination

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

For complaints under the General Grievance Procedure (allegations of Non-Harassment Sex Discrimination and allegations of Sex-Based Harassment where neither party is a student): The written notice will include the determination as to whether Sex Discrimination occurred; the rationale for such determination; any disciplinary sanctions (if applicable); and the University's procedures for the complainant and respondent to appeal.

For complaints under the Heightened Grievance Procedure (allegations of Sex-Based Harassment involving at least one student party): The written notice will include a description of the alleged Sex-Based Harassment; information about the policies and procedures that the University used to evaluate the allegations; the decisionmaker's evaluation of the relevant and not otherwise impermissible evidence; the determination of whether Sex-Based Harassment occurred; the rationale for such determination; any disciplinary sanctions (if applicable); whether remedies will be provided to the complainant or any other students; and the University's procedures for the complainant and respondent to appeal.

In cases under the General Grievance Procedure, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the decisionmaker received the adjudication file. In cases under the Heightened Grievance Procedure, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded or the date the decisionmaker received the adjudication file in the event that no live hearing is conducted. In some cases, more time may be required. The determination of the decisionmaker may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

viii Dismissal of Complaint Prior to Adjudication

The University may dismiss a complaint of Sex Discrimination for any of the following reasons:

- The University is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the University's education program or activity and is not employed by the University;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex Discrimination; or
- The University determines the conduct alleged in the complaint, even if proven, would not constitute Sex Discrimination. Prior to dismissing on this ground, the University will make reasonable efforts to clarify the allegations with the complainant.

If dismissing an allegation of Sex-Based Harassment involving at least one student party based on the complainant's withdrawal of the complaint or allegations, the University will obtain the complainant's withdrawal in writing.

If the University dismisses a complaint, the University will promptly send written notice of the dismissal and the reasons for the dismissal to the complainant. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also send written notice of the dismissal and the reasons for the dismissal to the respondent simultaneously.

The complainant and, if applicable, respondent, will also be notified of the opportunity to appeal the dismissal, as set forth in Section XII.F.ix. Appeal below.

In the event that the University dismisses a complaint, the University will offer supportive measures to the complainant and to the respondent, if the respondent has been notified of the allegations. Additionally, the Title IX Coordinator will take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University's education program or activity.

ix Appeal

The parties may appeal in the following circumstances:

- Either the complainant or the respondent, if the respondent has received notice of the allegations, may appeal the University's decision to dismiss a complaint of Sex Discrimination.
- Under the General Grievance Procedure and Heightened Grievance Procedure, either the complainant or the respondent may appeal the decisionmaker's decision regarding responsibility.

Grounds for appeals are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination of responsibility or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

a) *Submitting an Appeal*

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

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

If the Title IX Coordinator determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. In the case of an appeal of a dismissal made prior to notifying the respondent of the allegations, the respondent will also receive the notice of allegations. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. While the party may be assisted by their advisors, if any, in preparation of the responsive appeal statement, the responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

The Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent,

information subject to a legal privilege without a waiver, or evidence relating to the complainant's sexual interest or prior sexual conduct if an exception does not apply).

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

The appeal file will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the appeal file.

The parties and parties' advisors, if any, may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal file or any additional information, the parties and parties' advisors, if any, will be required to sign a non-disclosure agreement agreeing to such terms. The University will take steps to address any unauthorized disclosure of information or evidence obtained solely through the complaint resolution process which may include but is not limited to disciplinary action. See Section XV. Complaints of Related Misconduct below.

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

b) Consideration of Appeal

The appeal officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The appeal officer may, in their discretion, seek additional information from the Title IX Coordinator, investigator, or another appropriate individual. If the appeal officer receives any additional information, the parties shall have an opportunity to review the additional information.

The appeal officer has the authority to affirm the findings or remand the findings for reconsideration. If the appeal officer determines there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, the matter will generally be remanded for further

investigation and/or deliberations by the decisionmaker, and/or an additional live hearing, as determined by the appeal officer.

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

Upon remand, the investigator and decisionmaker shall utilize the same process as required for all complaint processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this Section.

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

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

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

XIII.RECORDKEEPING RELATED TO SEX DISCRIMINATION

The Title IX Coordinator is responsible for maintaining records relating to Sex Discrimination reports and complaints. This includes records documenting the informal resolution process, the General Grievance Procedure, the Heightened Grievance Procedure, and the resulting outcome. Additionally, for each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute Sex Discrimination, the Title IX Coordinator will maintain records documenting the actions the University took to meet its obligations under Title IX. The Title IX Coordinator will also maintain all materials used to provide training under this Policy.

When a complaint is pending, each official having a role in the complaint resolution process is responsible for handling records appropriate to their role. When the process is complete, the official

records relating to the complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law.

XIV. TRAINING

All University employees will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter. The training does not rely on sex stereotypes and training regarding the complaint resolution process promotes impartial investigations and adjudications. The University will make the training materials available upon request.

A. All Employee Training

All employees will receive training on (1) the University's obligation to address Sex Discrimination in its education program or activity; (2) the scope of conduct that constitutes Sex Discrimination under Title IX, including the definition of Sex-Based Harassment; and (3) all applicable notification and information requirements, including reporting obligations and/or confidential employee obligations discussed above in Section X.A.i. Employee Reporting Obligations, Section X.A.iii. Mandatory Reporting Concerning Minors and Vulnerable Adults, Section **Error! Reference source not found.** Obligations of Confidential Employees and information obligations related to pregnant students.

B. Training for Individuals with Heightened Responsibilities

Investigators, decisionmakers, persons with authority to modify or terminate supportive measures, and any other person responsible for implementing the grievance procedure, will receive training on the following topics, to the extent each topic is related to the person's responsibilities: the University's obligations under 34 CFR § 106.44; the University's General Grievance Procedure; the University's Heightened Grievance Procedure; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; the meaning and application of the term "relevant" in relation to questions and evidence and the types of evidence that are impermissible regardless of relevance; issues related to Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability.

Facilitators of informal resolution processes will receive training on the rules and practices associated with the University's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

The Title IX Coordinator and any designee of the Title IX Coordinator will receive training on all topics discussed in this Section and their responsibilities under Title IX, the University's recordkeeping system, and any other training necessary to coordinate the University's compliance with Title IX.

XV. COMPLAINTS OF RELATED MISCONDUCT

Any complaint relating to violations of supportive measures, violations of University's Policy on Romantic and Sexual Relationships, the violation of the obligation to act in good faith, violation of the obligation to be truthful, violation of the prohibition on widespread social media or other media disclosures, violations of sanctions, violations of an informal resolution agreement, or violations of a non-disclosure agreement should be reported promptly to the Title IX Coordinator. The University will provide a prompt and equitable process for the resolution of such complaints. The University will take appropriate action against any individual who violates supportive measures, the obligation to act in good faith, the obligation to be truthful, sanctions, an informal resolution agreement, or a non-disclosure agreement.

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

XVI. ALTERNATIVE PROCEDURES

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

Office for Civil Rights
Chicago Office
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: (312) 730-1560

Facsimile: (312) 730-1576
Email: OCR.Chicago@ed.gov

XVII. RESOURCES

EMERGENCY RESPONSE

Campus Safety (Winona)

507-457-1703

Campus Safety (Twin Cities)

612-720-0417

City of Winona Police Department

911 or 507-457-6302

City of Minneapolis Police Department

911 or 311

City of Rochester Police Department

911 or 507-328-6800

Emergency Law Enforcement Response: 911 (from anywhere)

MEDICAL TREATMENT

Winona Community Memorial Hospital

855 Mankato Avenue, Winona, MN 55987

507-454-3650 - *Provides medical treatment and sexual assault forensic exams*

Winona Health Urgent Care

859 Mankato Avenue, Winona, MN

507-474-7830

Monday – Friday: 7 a.m. – 8 p.m.

Saturday – Sunday: 8 a.m. – 5 p.m.

Gundersen Winona Urgent Care

1122 West Hwy 61, Winona, MN

507-615-0600

Monday – Sunday: 9 a.m. – 5 p.m.

Gundersen Onalaska Urgent Care

3111 Gundersen Drive, Onalaska, WI

608-775-8650

Monday – Friday: 7 a.m. – 10 p.m.

Saturday – Sunday: 9 a.m. – 5 p.m.

Gundersen La Crosse Urgent Care

1900 South Avenue, La Crosse, WI

608-775-3128

Monday – Sunday: 7 a.m. – 11 p.m.

Mayo Clinic – Franciscan Healthcare La Crosse Urgent Care

700 West Avenue South, La Crosse, WI

608-392-7000

Monday – Sunday: 8 a.m. – 8 p.m.

Mayo Clinic – Franciscan Healthcare Onalaska Urgent Care

191 Theater Road, Onalaska, WI

608-392-5000

Monday – Friday: 5 – 9 p.m.

Saturday – Sunday: 9 a.m. – 5 p.m.

Hennepin Healthcare

730 South 8th Street, Minneapolis, MN 55415

612-873-3000 - *Provides medical treatment and sexual assault forensic exam*

Mayo Clinic – St. Mary’s Hospital

1216 2nd Street SW, Rochester, MN 55902

507-255-5385 - *Provides medical treatment and sexual assault forensic exam*

Jay Johnson Wellness Center (Winona Campus)

700 Terrace Heights, 44 Mary’s, Winona, MN 55987-1399

507-457-1492

Hours: By appointment. To request an appointment email wellnesscenter@smumn.edu.

COUNSELING

Hiawatha Valley Mental Health Center

420 E. Sarnia Street, Winona, MN 55987

507-454-4341

First Call for Help

211 - Provides referral to local mental health agencies in times of crisis

OTHER RESOURCES

The Advocacy Center of Winona

100 Latsch Square #201, Winona, MN 55987

<http://www.advocacywinona.org/>

507-452-4440, 507-452-4453 (24-hour hotline) – *Provides information, referrals, and advocates for victims of sexual assault*

Sexual Violence Center

2021 East Hennepin Avenue, Suite 418, Minneapolis, MN 55413

612-871-5111 - *Provides information, referrals, and advocates for victims of sexual assault*

Dodge, Fillmore & Olmsted Counties Victim Services

151 4th St SE, Rochester MN 55904

507-289-06367270 - *Provides information, referrals, and advocates for victims of sexual assault*

National Domestic Violence Hotline 800-799-7233 (SAFE)

Rape, Abuse and Incest National Network 800-656-4673

Minnesota Coalition against Sexual Assault 651-209-9993

XVIII. STATE LAW DEFINITIONS

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

Sexual Assault

See [Minnesota Statutes Section 609.341](#) et seq. for applicable criminal law definitions relating to sexual assault. Minnesota law prohibits criminal sexual conduct in the first through fifth degrees as set forth in [Minnesota Statutes Sections 609.342-609.3451](#); criminal sexual conduct includes non-consensual sexual contact and non-consensual sexual penetration as those terms are defined in [Minnesota Statutes Section 609.341](#).

Dating Violence

See [Minnesota Statutes Sections 518B.01; 609.2242](#) for applicable criminal law definitions relating to dating violence. Minnesota law does not specifically define dating violence; however, Minnesota law prohibiting domestic abuse includes physical harm, bodily injury, or assault committed between persons involved in a significant romantic or sexual relationship.

Domestic Violence

See [Minnesota Statutes Sections 518B.01; 609.2242](#) for applicable criminal law definitions relating to domestic violence. Minnesota law prohibits domestic abuse committed against a family or household member by a family or householder member, as those terms are defined in [Minnesota Statutes Section 518B.01](#).

Stalking

See [Minnesota Statutes Section 609.749](#) for applicable criminal law definitions relating to stalking. Minnesota law prohibits stalking as defined in Minnesota Statutes Section 609.749.