



**Saint Mary's
University**
of MINNESOTA

Sexual Misconduct Policy
Effective August 1, 2026

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HOW TO GET HELP

Any member of the university community who has experienced sexual or physical assault is encouraged to immediately seek medical assistance and crisis counseling, contact law enforcement to make a report, and make a report to the university.

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 Health

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.

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.

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 Heffron Hall, Winona, MN 55987-1399

wellnesscenter@smumn.edu

Hours: Tuesday–Wednesday 1:00 p.m. to 4:00 p.m. when classes are in session

COUNSELING**Jay Johnson Wellness Center (Winona Campus)**

700 Terrace Heights, 134 Hendrickson Center, Winona, MN 55987-1399

wellnesscenter@smumn.edu

Hours: Monday–Thursday 8:00 a.m.–3:00 p.m. when classes are in session

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

CONFIDENTIAL RESOURCES

The resources designated below can provide counseling, information, and support under confidentiality protections.

ON CAMPUS

Jay Johnson Wellness Center – Counseling Services

700 Terrace Heights, 134 Hendrickson Center, Winona, MN 55987-1399

wellnesscenter@smumn.edu

Hours: Monday–Thursday 8:00 a.m.–3:00 p.m. when classes are in session

Jay Johnson Wellness Center – Health Services

700 Terrace Heights, 44 Heffron Hall, Winona, MN 55987-1399

wellnesscenter@smumn.edu

Hours: Tuesday–Wednesday 1:00 p.m. to 4:00 p.m. when classes are in session

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 & Olmsted Counties Victim Services

151 4th St SE, Rochester MN 55904

507-328-7270 – *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

REPORTING OPTIONS AT SAINT MARY’S (Private, but not Confidential)

Katherine Johnson

Title IX Coordinator

700 Terrace Heights

132 Hendrickson Center

Winona, MN 55987

Title IX@smumn.edu

507-457-7402

Niki Peterson, M.S.
Deputy Title IX Coordinator
195 Griffin Hall
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Katie Pierpont
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700 Terrace Heights #44
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La Salle Halle 175
2500 Park Avenue
Minneapolis, MN 55404
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612-238-4513

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

Winona Campus Safety
507-457-1703

Twin Cities Campus Security
612-720-0417

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.

I. PURPOSE AND STATEMENT OF POLICY

Saint Mary's university of Minnesota ("the university") is committed to fostering a climate free from sexual harassment, sexual assault, and other forms of sexual misconduct 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. Sexual misconduct, in any form, violates the dignity of the person and is inconsistent with the mission and values of the university.

The university is committed to taking all appropriate steps to eliminate sexual misconduct, prevent its recurrence and address its effects. Individuals found responsible under this policy may face disciplinary sanctions up to and including dismissal from the university and/or termination of employment.

The university will not tolerate retaliation against an individual who makes a report or participates in any proceedings under this policy. This policy prohibits any form of retaliation, and community members engaging in retaliation will be subject to disciplinary action, whether such acts are implicit or explicit, or committed directly or indirectly.

This policy provides the university community with (1) resources and recourse for individuals who experience sexual misconduct, (2) guidance to a reporting party, complainant, respondent or other affected community members, (3) the university's expectations for healthy respectful interpersonal interaction and communication, and (4) a procedural outline for addressing behaviors that are counter to university's mission and prohibited by this policy.

This policy provides for several paths by which an individual who experiences sexual misconduct may proceed, including seeking assistance from confidential resources, filing a report with the university and/or law enforcement, seeking supportive measures, and filing a formal complaint. The filing of a formal complaint may lead to an informal resolution, or to a formal investigation and resolution.

All university proceedings under this policy are conducted in compliance with the requirements of Title IX, the Clery Act, as amended by VAWA, the Family Educational Rights and Privacy Act (FERPA), and state and federal law, as may be applicable. No information shall

be released from such proceedings except as required or permitted by law and university policy.

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 policy 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.

II. NOTICE OF NONDISCRIMINATION

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, sexual orientation, 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 and gender identity.

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 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.

The university prohibits unlawful discrimination on the basis of sex in any form. The university will promptly and equitably respond to all reports of such discrimination. To report

information about conduct that may constitute discrimination on the basis of sex or to make a complaint of discrimination on the basis of sex, please contact the Title IX Coordinator.

Questions or concerns about Title IX may be directed to the university's Title IX Coordinator:

Katherine Johnson .
Title IX Coordinator
132 Hendrickson Hall
Title IX@smumn.edu
507-457-7402

Question or concerns about other discrimination or harassment may be directed to the vice president for human resources:

Fernando Rosas
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>

III. SCOPE OF POLICY

This policy applies to all students, faculty, staff, groups, members of the Board of Trustees, consultants, vendors, volunteers, others engaged in business with the university, guests and visitors. Every individual is responsible for acting in accordance with this policy and other university policies and procedures. Any individual can be a reporting party or complainant.

This policy applies to all forms of sexual misconduct that have been committed by or directed toward a current or prospective student or employee or any other individual participating in or seeking to participate in a university program or activity. The policy is intended to apply to the following:

1. Allegations of sexual harassment within the scope of Title IX;
2. Allegations of sexual assault, dating violence, domestic violence and stalking involving members or prospective members of the university community that may otherwise fall outside the scope of Title IX because the alleged incident occurred outside the United States or occurred outside of a university program or activity; and
3. Other allegations of unwelcome sexual conduct.

(Note: The university may not apply every aspect of the complaint resolution process to allegations that do not fall within #1)

The university supports the free exchange of ideas in the academic enterprise and shall interpret this policy in a way that protects such an exchange.

IV. DEFINITIONS

Complainant is an individual who is alleged to have experienced conduct that could constitute sexual misconduct under this Policy.

Confidential Resources are individuals who provide confidential assistance and support to individuals who have experienced or otherwise are involved in sexual misconduct situations. Confidential Resources are not required to notify the Title IX Coordinator or law enforcement about sexual misconduct so long as the allegations do not involve the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the life of any person. In accordance with applicable law, limited categories of individuals may serve as Confidential Resources. Confidential Resources are available both on and off campus. The Confidential Resources available on the Winona campus of the university are:

- The counselor in the Jay Johnson Wellness Center ;
- The health care providers in the Jay Johnson Wellness Center; and
- Clergy, or other ministers of any religion (e.g. campus chaplains), in the following limited circumstances:
 - A member of the clergy or minister who learns of sexual misconduct through

confession to such clergy member or minister, if disclosure is enjoined by the rules and practice of the religious body to which the member of the clergy or minister belongs.

- A member of the clergy or minister who does not have significant responsibility for student or campus activities other than pastoral counseling and who learns of sexual misconduct in the course of providing confidential pastoral counseling of a professional character, including religious or spiritual advice, aid or comfort. Clergy and other ministers are not Confidential Resources if they are not acting in the professional capacity of a pastoral counselor.

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.

Consent is clear, knowing, and voluntary permission. It can only be given by someone of legal age. Consent is demonstrated through mutually understandable words or actions that clearly indicate a willingness to engage freely in sexual activity. Consent cannot be obtained through the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise free will to choose whether or not to have sexual contact. Silence does not constitute an indication of consent.

Each participant in a sexual encounter is expected to obtain and give consent to each act of sexual activity in order for the activity to be considered consensual. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. While consent can be given by words or non-verbal actions, non-verbal consent is more ambiguous than explicitly stating one's wants and limitations. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

When consent is requested verbally, the absence of any explicit verbal response or the absence of a clear non-verbal response constitutes lack of consent. A verbal "no" constitutes lack of

consent, even if it sounds insincere or indecisive. Under this policy, “no” always means “no.” “Yes” only means “yes” when it is voluntarily and knowingly given by an individual who has the capacity to give consent.

If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of other individuals to proceed, all parties should stop and verbally clarify the other’s willingness to continue before proceeding with such activity.

Any party may withdraw consent prior to the completion of the act. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even within the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time.

Individuals must be able to fully understand what they are doing in order to consent to sexual activity. An individual who is incapacitated is unable to give consent.

In the State of Minnesota, the age of majority is 18. Under state law, consent cannot be given by any individual under the age of 16 to participate in sexual activity with an individual over the age of 18.

Incapacitation means the physical and/or mental inability to make informed, rational judgments. . Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. In addition, persons with certain intellectual or developmental disabilities may not have the capacity to give consent. Consent cannot be obtained by taking advantage of another individual’s incapacitation.

Where alcohol or other drugs are involved, incapacitation is a state beyond intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady balance, strong odor of alcohol, combativeness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual’s:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

In other words, a person may be considered unable to give valid consent due to incapacitation if the person cannot appreciate the who, what, where, when, why, or how of a sexual interaction.

Evaluating incapacitation also requires an assessment of whether a respondent was or should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

Being intoxicated or impaired by drugs or alcohol is never an excuse for any sexual misconduct under this policy and does not diminish one's responsibility to obtain informed and freely given consent.

Education Program or Activity includes all of the university's operations, including locations, events, or circumstances over which the university exercises substantial control of both the respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the university.

Formal Complaint is a document filed by and signed by a complainant or signed by the Title IX Coordinator alleging sexual misconduct against a respondent AND requesting that the university investigate the allegation(s). Formal complaints must be filed in order to pursue either an Informal Resolution Process or a Formal Resolution.

Formal Resolution is a grievance process initiated when a formal complaint is signed and filed alleging sexual harassment against a respondent and also requests that the complaint be investigated. The Formal Resolution includes an investigation, a decision, and appeal.

Informal Resolution Process is an alternate complaint resolution process available when a formal complaint is signed and filed alleging sexual harassment against a respondent, and both parties agree to have the complaint resolved informally.

Mandatory Reporter is any university official with the authority to institute corrective

measures relating to allegations of sexual misconduct. Mandatory reporters are required to disclose to the Title IX Coordinator any report of sexual misconduct of which they are aware to ensure the university is able to provide a prompt, thorough, and supportive response. Confidential resources are exempt from this requirement.

Preponderance of the Evidence means that the information or evidence provided is more likely than not to be true. When evaluating the information and evidence, the decision-maker(s) will first evaluate the quality. The decision-maker(s) will consider all of the information and evidence regardless of its origin. Any information or evidence the decision-maker(s) find to be of high quality should be given more weight than any information or evidence the decision-maker(s) find to be of low quality. Quality may or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness or a single piece of information or evidence may be sufficient to establish a fact.

Decisions that require the use of an evidentiary standard (determinations of responsibility, process appeals, challenges to Title IX dismissal, and findings of fact) will be made after the decision maker(s) assess the quality of the information or evidence and determine that the decision is justified. That is, the decision-maker(s) should find that there is sufficient evidence that is relevant, probable, and persuasive to convince them that a particular assertion is more likely than not and that the evidence supporting such an assertion outweighs any evidence to the contrary.

An **Official with Authority** is a university official with the authority to institute corrective measures on behalf of the university related to sexual misconduct. University positions that are considered to be officials with authority are identified below. If an individual reports sexual misconduct to one of these officials with authority, the university will be deemed to have knowledge of the report and must take particular steps in accordance with applicable law and this policy.

- Title IX Coordinator
- Deputy Title IX Coordinators
- All employees in Human Resources
- Dean of Students
- Associate and Assistant Deans
- President
- Chief Operating Officer
- Chief of Staff
- Vice Presidents for Academic Affairs

- Vice Presidents
- Assistant Vice Presidents
- Residence Hall Directors

Remedies are measures determined to be necessary by the Hearing Chair (Title IX) or Adjudicator (non-Title IX) to restore or preserve the complainant's equal access to the university's education program or activity. Remedies will be determined and monitored by the Title IX Coordinator throughout the complainant's enrollment, employment, and/or engagement with the university.

Remedies include "supportive measures." However, they need not be non-disciplinary or non-punitive, and need not avoid burdening the respondent.

Reporting Party is any person who files a report of sexual misconduct.

Respondent is an individual who has been reported to have committed sexual misconduct. A respondent can be an individual or a student group or organization that is alleged to have engaged in conduct that violates this policy.

Sexual Extortion means compelling someone into sexual contact or penetration by making threats,

Sexual Misconduct means an incident of sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, as reasonably available, and without fee or charge to both the complainant and respondent before or after the filing of a formal complaint or when no formal complaint has been filed.

Unwelcome Conduct, for the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, is conduct that an individual did not request or invite and regards 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.

On the Basis of Sex, for the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, is conduct that is sexual in nature or is referencing or aimed at a particular sex.

Reasonable Person, for the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, is a person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

Title IX Dismissal occurs if the conduct alleged in a formal complaint does not constitute sexual misconduct as defined under Title IX, did not occur in a university education program or activity, or did not occur against a person in the United States. In those cases, the university must dismiss the formal complaint with regard to that conduct for purposes of sexual misconduct under Title IX.

V. ROLE OF THE 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 sexual misconduct, 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 discrimination based on sex; 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 sexual misconduct sex 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 sexual misconduct and taking steps reasonably calculated to address such barriers;
- Training and assisting university employees regarding how to respond appropriately to a report of sexual misconduct;
- 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:

Katherine Johnson.
 Title IX Coordinator
 700 Terrace Heights
 132 Hendrickson Hall
 Winona, MN 55987
TitleIX@smumn.edu
 507-457-7402

The university's Title IX Team includes appointed staff. 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 discrimination based on sex, 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

Katie Pierpont
Deputy Title IX Coordinator
701 Griffin Hall
700 Terrace Heights #44
Winona, MN 55987
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cpierpon@smumn.edu

Nancy Erickson
Deputy Title IX Coordinator
La Salle Halle 175
2500 Park Avenue
Minneapolis, MN 55404
nerickso@smumn.edu
612-238-4513

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

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.

VI. WHAT SEXUAL CONDUCT IS PROHIBITED?

The university is committed to fostering a campus environment free from sex-based discrimination and harassment. To uphold this commitment, the university prohibits sexual misconduct and will act promptly on any reports of such behavior involving a

student or staff member. The use of alcohol or drugs does not excuse actions that violate this policy.

Other types of sex-based discrimination are governed by distinct University policies. Furthermore, the university has a separate Romantic and Consensual Relationships Policy for students, faculty, and staff that, depending on the situation, prohibits or strongly discourages romantic, intimate, or sexual relationships between individuals with unequal power dynamics, even if consent is given.

A. Title IX Sexual Harassment

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in a university education program or activity and (2) against a person in the United States.

- 1. Title IX Quid Pro Quo Harassment:** Title IX Quid Pro Quo Harassment occurs when an employee of the university, including a student-employee, 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.
- 2. Title IX Hostile Environment Harassment:** Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment Harassment:

- Unwelcome sexual flirtations, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual

nature;

- 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;
- Unwelcome touching of a sexual nature such as patting, pinching or brushing against another's body;
- Unwelcome verbal or physical conduct against an individual related to the individual's gender identity or the individual's conformity or failure to conform to gender stereotypes;
- Cyber or electronic harassment on the basis of sex.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom.

Sexual Harassment is conduct with the following elements:

- 3. Sexual Assault, Domestic Violence, Dating Violence, and Stalking** as those terms are defined below (when such conduct occurs (1) in a university education program or activity and (2) against a person in the United States).

At a minimum, the university's education program or activity includes all of the operations of the university, including (1) locations on campus or otherwise owned or controlled by the university, such as residence halls and learning spaces, (2) locations, events, or circumstances

over which the university exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as university athletic events and other university-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by the university. Whether the alleged conduct occurred in the university's education program or activity is a fact specific analysis.

B. Non-Title IX Sexual Harassment

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the university prohibits unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the university's education program or activity, but may nevertheless cause or threaten to cause a unacceptable disruption at the university or substantially interfere with an individual's educational or work environment, or (3) that did not occur against a person in the United States.

As used in this Policy, Non-Title IX Sexual Harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;
- (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity; (2) does not occur in the university's education program or activity; or (3) does not occur against a person in the United States.

C. Sexual Exploitation

Sexual Exploitation is knowingly, intentionally or purposefully taking advantage of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, or personal benefit. Examples of Sexual Exploitation include:

1. Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
2. Voyeurism;
3. Nonconsensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
4. Nonconsensual recording of individuals in locations in which they have a reasonable expectation of privacy, such as restrooms or locker rooms, regardless of whether the images captured reveal sexual activity or nudity;
5. Sex trafficking (receiving, recruiting, enticing, harboring, providing, or obtaining an individual to aid in their prostitution, or knowingly profiting from such activities);
6. Prostituting another individual;
7. Nonconsensual disseminating a deepfake depicting intimate parts or sexual acts;
8. Exposing one's genitals in non-consensual circumstances;
9. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity, e.g., by using alcohol or other drugs (such as Rohypnol or GHB).
10. Removal of a condom, without consent, during sexual intercourse;
11. Knowingly exposing another individual to a sexually transmitted infection or virus without that individual's knowledge; and
12. Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

D. 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 intimate parts (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 (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 also is prohibited by Minnesota law. See Minnesota Statutes Section 609.341 et seq. or the State Law Definitions section below for applicable criminal law definitions of criminal sexual conduct.

E. 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, and intimate partner violence, which includes physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not

constitute criminal behavior against an individual. 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.

Intimate partner violence" means any physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior against an individual, that may be classified as a sexual misconduct, dating violence, or domestic violence caused by:

- (1) a current or former spouse of the individual; or
- (2) a person in a sexual or romantic relationship with the individual.

Dating Violence is also prohibited by Minnesota law. See Minnesota Statutes Section 518B.01; 609.2242 or the State Law Definitions section below for applicable criminal law definitions relating to Dating Violence.

F. Domestic Violence

As used in this Policy, Domestic Violence includes (i) a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under Minnesota family or domestic violence laws (or if the crime occurred outside of Minnesota, the jurisdiction in which the crime occurred), and (ii) intimate partner violence, which includes any physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior against an individual, caused by a current or former spouse or intimate partner of the individual.

Domestic Violence is prohibited by Minnesota law. See Minnesota Statutes Section 518B.01; 609.2242 or the State Law Definitions section below for applicable criminal law definitions relating to Domestic Violence. While not exhaustive, the following are examples of conduct that can constitute Domestic Violence: (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.

G. Stalking

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

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. For purposes of this definition, not all communication about a person will be considered to be directed at that person.

A reasonable person means a reasonable person in the victim's circumstances.

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

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;
- Unreasonably obtaining personal information about the victim.

Stalking is also prohibited by Minnesota law. See Minnesota Statutes Section 609.749 or the State Law Definitions section below for applicable definitions of criminal Stalking.

H. Retaliation and Interference with Process

Retaliation and Interference with Process 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/Interference with Process and violate this Policy. While the University does not prohibit the parties from discussing the allegations in a formal complaint, acts that could constitute Retaliation and Interference with Process may include, but are not limited to: 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 the 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 and Interference with Process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and Interference with Process may be present against a person even when the person's allegations of Sexual Misconduct are unsubstantiated.

The university is committed to protecting the rights of the complainant, the respondent, and anyone else involved in the complaint resolution process. Any conduct constituting Retaliation or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to the Title IX Coordinators. Reports of retaliation will be investigated by the Title IX Coordinator or that individual's designee. Disciplinary action will be determined by the Title IX Coordinator after completion of the investigation.

I. Threats toward an intimate partner

Threats toward an intimate partner means any threatened act of violence between employees or students who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. The university will evaluate the existence of an intimate relationship based upon the reporting party's statements taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

VII. HOW IS A REPORT OF SEXUAL MISCONDUCT MADE?

The university encourages prompt reporting of sexual misconduct. To make a report about

possible sexual misconduct, a party or any third party should notify the Title IX Coordinator or mandatory reporter. **A report may be made at any time, including during non-business hours, in person, by telephone, by mail, by email, or by completing the online reporting form. You can also report to a confidential resource.**

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

A complainant does not need to provide a definitive label of his or her experience at the time a report is made, nor does a complainant have to decide on a particular course of action in advance. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The university will offer reasonably available supportive measures consistent with this Policy. The university also provides support that can assist a complainant in making the important decisions about how to proceed, and to the extent possible, will respect a complainant's autonomy in deciding how to proceed. The university will seek to balance a complainant's interest with its responsibility to provide a safe and non-discriminatory environment for all members of the university community.

All individuals may seek assistance from medical provider(s) and/or law enforcement immediately after an incident of sexual misconduct, whether or not the complainant plans to pursue criminal charges. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement.

If an individual believes that the Title IX Coordinator has engaged in sexual misconduct or has otherwise behaved inappropriately, the individual should contact the President's Chief of Staff to discuss the complaint process.

A. Employee Reporting Obligations

To enable the university to respond to all reports in a prompt and equitable manner, the university encourages all individuals to report any sexual misconduct directly to the Title IX Coordinator. However, the university recognizes that a student or employee may choose to report to any employee of the university.

All university employees who are mandatory reporters and who obtain or receive information regarding possible Sexual Misconduct must report that information to a Title IX Coordinator.

All other employees, including student employees, are strongly encouraged to report sexual misconduct, including the identities of the parties, with the Title IX Coordinator.

Incidents that must be reported by mandatory reporters include:

- Incidents personally observed;
- Incidents that are reported to the employee; and
- Incidents of which the mandatory reporter otherwise becomes aware,

Such a report 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 other individuals involved in the incident, as well as relevant facts, including the date, time, and location.

Mandatory reporters who receive such reports should not attempt to “investigate” the allegation or require the reporting individual to provide all of the details surrounding the alleged Sexual Misconduct. To the extent the reporting individual provides detail, that information should be provided to a Title IX Coordinator. Upon receiving a report of alleged or possible Sexual Misconduct, 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.

Mandatory reporters who receive a report of Sexual Misconduct should bring the report directly to a Title IX Coordinator and should not share information about the report with any other individual. If the individual is uncertain whether the information should be reported to a Title IX Coordinator, the individual should seek guidance from a Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report. Failure of a mandatory reporter to report allegations of Sexual Misconduct to a Title IX Coordinator may result in disciplinary action.

B. Privacy

Privacy generally means that information related to a report of sexual misconduct will only be shared with those university employees who “need to know” in order to assist in the active review, investigation, or resolution of the report, including the issuance of supportive measures. The university will determine which employees have a legitimate need to know about individual complaints pursuant to FERPA, Title IX, the Clery Act, and university policy and will share information accordingly. The university may notify the parents or guardians of any dependent students who are respondents regarding conduct charges or sanctions, particularly disciplinary probation, loss of housing, suspension and dismissal.

C. Confidential Resources

There is a distinction between seeking assistance from a confidential resource and making a report to the university through designated reporting options. Confidential resources, including counselors, medical health providers, and clergy, have confidentiality obligations imposed by law and will not share information about a complainant or respondent (including whether or not that individual has received services) except under limited circumstances as permitted or required as described below. In contrast, all other university employees are expected to share information with the Title IX Coordinator.

Confidential Resources Located On Campus

Jay Johnson Wellness Center – Counseling Services

Elizabeth Martinka, MSW, LGSW, LICSW
700 Terrace Heights
134 Griffin Hall
Winona, MN 55987
emartink@smumn.edu

Jay Johnson Wellness Center – Health Services*

Hannah Degallier, PA-C
700 Terrace Heights
44 Heffon Hall
Winona, MN 55987
Hdegalli@smumn.edu

*Provided through a contract with Winona Health

Limits to confidentiality include:

1. **Mandatory Reporting of Child Abuse**
All university employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion that a minor (someone under 18 years old) is experiencing abuse or neglect based on information shared by the minor, any other individual, or one's own observations or knowledge. See Section VI.D. for more information.
2. **Risk of Harm to Self or Others**
Mental and medical health professionals are required to disclose information where

there is an imminent threat of harm to self (the client) or others.

3. Clery Act Reporting

Pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported at campus locations must be shared with Campus Safety. The information does not include the names or any other identifying information about the persons involved in such incidents.

D. Requests for Confidentiality or Non-Action

When the university receives a report of sexual misconduct, 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 Prohibited Conduct, 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 discrimination based on sex would occur if a complaint is not initiated;
- the severity of the alleged discrimination based on sex, 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 discrimination based on sex, or discrimination on the basis of sex alleged to have impacted multiple individuals;
- the availability of evidence to assist a decisionmaker in determining whether discrimination on the basis of sex occurred; and
- whether the university could end the alleged discrimination based on sex 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 sexual misconduct 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.

E. Anonymous Reporting

Any individual may make an anonymous report concerning an act of sexual misconduct. A report can be made without disclosing a name, identifying the respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may limit the university's ability to respond or take further action.

Anonymous reports can be submitted through the university's website. Follow-up communications with the person submitting the anonymous report are not possible unless contact information is provided. As with all other reports, anonymous reports will be shared with the Title IX Coordinator. Where there is sufficient information, the university will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

Employees who have a duty to report information to the Title IX Coordinator under this policy may not make such reports anonymously.

F. Protection of Minors

All university employees are required to report any knowledge or reasonable suspicion that a minor (under 18 years old) is experiencing abuse or neglect based on information shared by the minor, any other individual, or the employee's own observations or knowledge. A university employee suspecting abuse or neglect is required to bring all suspicions to the immediate attention of the following:

- Immediate danger – If the employee knows or suspects that a child is in immediate danger (such as a recent sexual assault or a serious physical assault) or a child is abandoned, contact local law enforcement right away. Law enforcement officers can remove a child from a threatening environment to protect them.
- No immediate danger – If a child is not in immediate danger, as soon as the employee has reason to believe a child has been maltreated, the employee should contact:
 - The local child welfare agency if an alleged perpetrator is a parent, guardian, family child care provider, family foster care provider, an unlicensed personal care provider organization, or juvenile correctional facility staff person.
 - The local law enforcement agency if the alleged perpetrator is staff working in a private or parochial school, someone outside the family, and not a staff person at a regulated facility.

All university employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion of child abuse or neglect as outlined in the university's Mandatory Reporting Policy. In Minnesota, a child is defined as anyone under 18.

The source of abuse does not need to be known in order to file a report, nor is there a requirement that there is actual evidence of abuse before making a report.

G. Reporting to Law Enforcement

The Title IX Coordinator, the Director of Campus Safety (Winona campus) or the Director Campus Security (Twin Cities campus) will assist a complainant, at the complainant's request, in contacting local law enforcement. If a complainant decides to pursue the criminal process, the university will cooperate with law enforcement agencies. A complainant has the right to choose whether to notify, or decline to notify law enforcement. Under most circumstances, the complainant may decline to participate in a law enforcement investigation.

The university's policy, definitions, and burden of proof may differ from Minnesota criminal law. A complainant may seek resolution through the university's processes, may pursue criminal action, may choose one but not the other, or may choose both options. Neither law enforcement's determination whether or not to prosecute a respondent nor the outcome of any criminal prosecution are determinative of whether sexual misconduct has occurred under this policy. Proceedings under this policy may be carried out prior to, concurrent with, or after civil or criminal proceedings as determined by the Title IX Coordinator.

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

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.

I. 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;
- Be protected from harm, including information about seeking a protective or harassment order at no cost;
- Be protected against employer retaliation for taking time off to attend protection or harassment restraining order proceedings; and
- Support in filing criminal charges with local law enforcement in sexual assault incidents, so long as it is the victim's decision to file charges;
- Be assisted from campus authorities, at the request of the victim, in obtaining, securing, maintaining, and preserving evidence, at the direction of law enforcement;
- Decide whether to report a case to law enforcement, not report altogether, participate in a campus investigation or disciplinary proceeding or non-disciplinary informal resolution, or not participate altogether ;
- Be referred to fair and respectful health care, counseling services on or off campus;
- Be referred to on and off campus community-based services providing sexual assault advocacy, information, and legal services
- Have an advisor, who may be a lawyer, present with the victim during meetings with campus authorities.
- Refuse to repeat a description of an incident.

- Be provided with the outcome of any disciplinary hearing, consistent with applicable data privacy laws, in the case of a sexual assault;
- Bar conditions or contingencies to receive financial aid or supportive measures unless the victim signs a nondisclosure agreement.
- Prohibit campus authorities from suggesting that it is a victim's fault for the crimes that occurred, or a victim could have acted differently to avoid a crime.
- Be assisted by 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/oip/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.

J. Reporting Considerations

Timeliness of Report

In order to maximize the university's ability to respond promptly and effectively to reports, all those impacted by sexual misconduct are encouraged to report as soon as possible. There is no time limit on reporting violations of this policy, though prompt reporting is encouraged. If the respondent is no longer a student or employee at the time of the report, the university may not be able to take disciplinary action against them. The university will still provide support and reasonably available supportive measures to a complainant, as well as assistance in identifying appropriate external reporting options.

Amnesty for Personal Use of Alcohol or Other Drugs

The university seeks to remove barriers to reporting, including potential concern about policy violations related to underage drinking or the use of prohibited drugs. The university

will offer any student who reports or experiences sexual misconduct limited immunity from being charged for policy violations related to the personal ingestion of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of any person at risk. The university may choose, however, to pursue educational or therapeutic remedies for those individuals.

K. Report Resolution

A report to the Title IX Coordinator is not the same as a formal complaint. In order for a report to be officially resolved, a formal complaint must be filed in writing alleging sexual harassment or other sexual misconduct against a respondent and requesting that the school officially investigate and resolve the allegation. The complaint may be resolved through either Informal Resolution or through the Formal Resolution for Title IX-based sexual misconduct or through the Adjudicator Resolution for non-Title IX based sexual misconduct

IX. WHAT SUPPORTIVE MEASURES MAY BE OFFERED?

Upon receipt of a report of sexual misconduct, the university may impose reasonable and appropriate supportive measures designed to restore or preserve a complainant's equal access to university programs or activities without fee or charge, and without treating the respondent as responsible unless and until the completion of a Formal Resolution that determines the respondent to be responsible for a policy violation. Supportive measures are designed to restore or preserve equal access to the university's education programs and activities without unreasonably burdening the other party. They include measures designed to protect the safety of all parties or the university's educational environment, and include measures to deter sexual harassment.

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.

Supportive measures are available to both the complainant and respondent regardless of whether the complainant chooses to file a formal complaint. The Title IX Coordinator will maintain the privacy of any supportive measures provided to the extent possible and will promptly address any reported violation/s of the supportive measures.

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 Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any requests for or questions concerning supportive measures may be directed to the Title IX Coordinator.

A. Range of Supportive Measures

Potential supportive measures, implemented on behalf of the complainant and/or the respondent to the extent reasonably available and warranted by the circumstances, include, but are not limited to:

- Access to counseling services and assistance in setting up an initial appointment, both on and off campus;
- Imposition of a mutual “no-contact order” prohibiting the parties involved from communicating with each other (failing to abide by the no-contact order may result in allegations of additional policy violations);
- Rescheduled exams and assignments;
- Extensions of deadlines;
- Alternative course completion options;
- Change in class scheduling, including the ability to transfer course sections or withdraw from a course without penalty;
- Providing academic accommodations or providing assistance with academic issues
- Change in work schedule or job assignment;
- Change in student’s university-owned, sponsored or controlled housing;
- Assistance in completing housing relocation;
- Limiting an individual’s or organization’s access to certain university facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Special parking arrangements;
- Increased security and monitoring of certain areas of the campus;
- Providing a temporary cell phone
- Access to medical services;
- Academic support services, such as tutoring;

- University-imposed administrative leave or separation;
- University-imposed restricted access;
- Assistance with identifying resources available to help with visa or immigration issues, legal issues and transportation options;
- 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;
- Other remedies that can reasonably be tailored to the involved individuals to achieve the goals of this policy.
- 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.

B. University-Imposed Restricted Access and Administrative Leave

Restricted access is the removal of a respondent from the university's education program or activity on an emergency/temporary basis. Restricted access is not disciplinary in nature and is not recorded on the respondent's transcript or permanent employee file. Restricted access is evaluated on an individualized basis to determine the appropriate level of access to campus and participation in the university's programs and activities. Students placed on restricted access are often, but not always, permitted to continue to participate in classes and other academic obligations, and may or may not be able to remain in university housing, eat in the dining hall, or be present on campus during unstructured periods of time.

The Title IX Coordinator conducts an individualized safety and risk analysis to determine whether there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment and/or other allegations of sexual misconduct. If so, the Title IX Coordinator may, in consultation with the appropriate university personnel, impose restricted access on respondents. The Title IX Coordinator will notify both parties in writing of the resulting restrictions and any changes to such restrictions.

All respondents are able to challenge restricted access. If a Respondent wishes to challenge restricted access, the respondent shall provide written notice of such challenge, including the basis for the challenge, to the Title IX Coordinator within two (2) business days of receiving notice of the restriction. The Title IX Coordinator, in conjunction with appropriate university personnel, shall meet with the respondent. The Respondent may be accompanied by an advisor of his or her choice. The purpose of the meeting is to permit the respondent to contest

the restriction. The location of the meeting will be determined by the Title IX Coordinator and may occur via telephone or video-conference. Within two (2) business days of the meeting, the Title IX Coordinator and appropriate university personnel shall again consult regarding the restricted access and shall notify the respondent in writing of the outcome. Any changes to the restrictions shall be provided in writing to all parties.

The Title IX Coordinator, in conjunction with other appropriate university personnel, may impose administrative leave on employee respondents if the facts and circumstances surrounding the reported conduct support such leave. Administrative leave is a separate process from restricted access and is not disciplinary in nature. Employees placed on administrative leave will receive written notice of the conditions of that leave, but will not be able to challenge the administrative leave.

X. WHAT PROCESSES APPLY TO THE RESOLUTION OF COMPLAINTS?

When a formal complaint is filed, the complaint resolution process begins. The university will provide a timely, impartial, and thorough complaint resolution process. A fair process is one that treats the parties equitably and with dignity and respect, provides complainant an opportunity to file a formal complaint alleging a violation of the 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 provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that is not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the written response statements in response to the investigation report, and through the written rebuttal statements in response to the other party's written response statement as discussed below

Each complaint resolution process will require an objective evaluation of all relevant 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 of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the Institutions and not on the parties. The university will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The university will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other

recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, a Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of the investigation phase, a Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, 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. Process Assurances: Complainant and Respondent

In any report, complaint, investigation or resolution under this policy, both a complainant and a respondent are entitled to:

1. be treated with respect, sensitivity, and dignity;
2. appropriate support from the Institutions;
3. privacy to the extent possible based on applicable law and this Policy;
4. information on the Policy and procedures;
5. written explanation of available resources;
6. 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;
7. be free from retaliation as defined in this Policy;
8. equitable procedures that provide both parties with a prompt and equitable complaint resolution procedure conducted by officials who receive annual training on conduct prohibited by the Policy;
9. notice of the allegations and defenses and an opportunity to respond;
10. an equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process;

11. an equal opportunity during the hearing to consult with an additional support person other than the party's advisor, if requested and deemed appropriate by the Title IX Coordinator or designee.
12. 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;
13. timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;
14. the right to appeal the decision and/or the dismissal of a formal complaint in certain circumstances
15. the right to notification, in writing, of the resolution, including the outcome of any appeal;
16. the right to the 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 housing owned by the university (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;
17. the complainant has the right to decide when to repeat a description of an incident of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, and the respondent has the right to decide when to repeat a description of a defense to such allegations;
18. 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;
19. the right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding;
20. the right to be provided access to their description of the incident, as it was reported to the Institutions, 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 a Title IX Coordinator.

B. Additional Rights in Cases Involving Allegations of Title IX Sexual Harassment

In cases involving allegations of Title IX Sexual Harassment, in addition to the rights provided above, the following additional rights will be afforded to the complainant and the respondent:

1. 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 advisor for either the complainant or respondent in any meeting related to the complaint resolution process.

2. The parties will be provided an equal opportunity to inspect and review a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth below.
3. The parties will be provided a copy of the investigation report for their review and written response.
4. The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions.

In addition, a complainant who alleges Title IX Sexual Harassment, has the following rights:

1. To be informed by the university of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
2. 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 Sexual Misconduct;
3. Not to be treated by campus authorities in a manner that suggests that they are at fault for the Sexual Misconduct or that they should have acted in a different manner to avoid the Sexual Misconduct;
4. 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 Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Dating Violence, Domestic Violence, or Stalking cases;
5. 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;
6. To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
7. 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 Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

C. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, or Stalking, Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States

In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring outside of the education program or activity or against a person outside of the United States, in addition to the rights provided in Section A above, the following additional rights will be afforded to the complainant and the respondent:

1. 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 advisor for either the complainant or respondent in any meeting related to the complaint resolution process.
2. The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process.

In addition, a complainant who alleges Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring outside of the education program or activity or against a person outside of the United States, has the following rights:

1. To be informed by the university of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
2. 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 Sexual Misconduct;
3. Not to be treated by campus authorities in a manner that suggests that they are at fault for the Sexual Misconduct or that they should have acted in a different manner to avoid the Sexual Misconduct;
4. 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 Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement

- officials in Sexual Assault, Dating Violence, Domestic Violence, or Stalking cases;
5. 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;
 6. To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
 7. 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 Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

D. Advisor of Choice

The complainant and the respondent in the complaint resolution process involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking occurring outside of the university's education program or activity or against a person outside of the United States, 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 formal complaint is filed, advisors are invited and strongly encouraged to speak with the Title IX Coordinator for an orientation to the university's policies and procedures, privacy protections, and expectations around participation and decorum. If a formal complaint is addressed through an Informal Resolution, the parties are encouraged but not required to have an advisor. If a formal complaint is addressed through a Formal Resolution, both the complainant and the respondent must have an advisor for the purpose of conducting cross-examination at the live hearing. If either party does not have an advisor for the live hearing phase of a Formal Resolution, an advisor of the university's choosing will be assigned at no cost to the party.

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 relevant evidence and investigation reports.
- 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.

The advisor's participation is defined below:

Meetings with the Title IX Coordinator: Advisors may accompany the complainant or the respondent to any meeting with the Title IX Coordinator. If a formal complaint is filed, advisors are invited and strongly encouraged to speak with the Title IX Coordinator (or designee) for an orientation to the university's policies and procedures, privacy protections, and expectations around participation and decorum. If an advisor also expects to serve as a witness, the advisor should disclose this information to the Title IX Coordinator as soon as possible.

Informal Resolution Process: Advisors are not required to be present during any phase of the Informal Resolution process, but parties are strongly encouraged to include them. Advisors will be permitted to ask questions and advise the party with whom they are working.

Investigation: Advisors will receive access to the investigative report that contains the report narrative and all submitted evidence produced in the investigation, unless the party they are advising indicates in writing that the advisor should not be able to access the evidence. Advisors are not required to attend the investigation interview/s but they are permitted to attend other meetings. Advisors may not ask or answer questions or provide information during any meeting.

Pre-Hearing Conference: Advisors **are required** to attend a pre-hearing conference with the Hearing Officer to review the university's live hearing procedures. Advisors are encouraged to ask questions to understand their role at the hearing and the university's expectations around participation and decorum. If an advisor also expects to serve as a witness, the advisor should disclose this information to the Title IX Coordinator no later than this conference.

Live Hearing: At the live hearing, each party's advisor will be responsible for asking relevant questions to the other party or parties and any witnesses. Advisors are encouraged to focus questions on disputed issues so as to assist the Hearing Officer in determining issues of credibility. This questioning will be conducted orally, directly and in real-time in a manner that, in the Hearing Officer's sole discretion, is not inappropriate, harassing, intimidating, irrelevant, or redundant. The Hearing Officer reserves the right to remove an advisor who questions witnesses in an abusive, intimidating, harassing, or disrespectful manner. In the instance that an advisor is removed, the hearing will be suspended until a later date to permit an alternative advisor to be obtained or assigned.

E. Obligation to Act in Good Faith

Reports and formal complaints of alleged Sexual Misconduct should be made only in good faith. Reports and formal complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violate other university policies. An allegation that a person has violated the obligation to act in good faith will be handled through the university's standard judicial processes used for violations of the Student Handbook.

F. 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 a Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted in writing 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 a Title IX Coordinator has a conflict of interest or bias, such concern should be reported in writing to the university's President. If a Title IX Coordinator has a conflict of interest with respect to a complaint, the President or the President's designee shall appoint an alternate person to oversee adherence to the Sexual Misconduct Policy with respect to the formal complaint at issue. In cases where the President is a party to the complaint or has a conflict of interest with respect to a complaint, the Chair of the Board of Trustees for the university shall ensure that the university puts in place appropriate safeguards under the circumstances to ensure that the institution promptly and equitably responds to the formal complaint, including, but not limited to appointment of alternate individuals to serve in roles of Title IX Coordinator.

The parties should be mindful that the university has a small and close-knit 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 a Title IX Coordinator's attention for consideration.

G. Obligation to be Truthful

All parties and witnesses have an obligation to be truthful in this process. Engaging in dishonesty may be considered retaliation or interference with process under this Policy and/or violate other university policies. An allegation that a person has violated the obligation to be truthful will be handled through the procedures identified in Complaints of Related Misconduct below.

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 the complainant declines to participate in the process, the Institutions' ability to meaningfully investigate and adjudicate a formal complaint may be limited. In such cases, the Institutions will proceed with the complaint resolution process, if possible, without the complainant's participation, and will 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 Institutions will proceed with the complaint resolution process and will make a determination based upon the information available. 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. Similarly, 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.

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. In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

I. 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 Title IX Hearing Panel/Adjudication Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent is more likely than not engaged in Sexual Misconduct.

J. Application of Policy

When the university receives a report or formal complaint of a violation of this Policy, the university will apply the complaint resolution procedures from the Policy that is in effect at the time that the report or formal complaint is made and generally will apply the Sexual Misconduct definitions from the Policy that was in effect at the time the alleged misconduct occurred. For cases involving allegations of Title IX Sexual Harassment, the university will apply the definitions from the policy that is in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that was in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

K. Reservation of Flexibility

The procedures set forth in this Policy reflect the university's desire to respond to formal complaints in good faith and in compliance with legal requirements. The Institutions recognize 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 formal complaint is made against an individual who is

not a student or employee of the university, and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the university reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

XI. WHAT ARE THE PROCEDURES FOR SEXUAL MISCONDUCT COMPLAINT RESOLUTION?

Upon receipt of a report, the Title IX Coordinator will conduct an initial assessment to provide an integrated and coordinated response to reports under this policy. In the course of this initial assessment, the Title IX Coordinator will consider the complainant's expressed preference regarding supportive measures and the manner of resolution, unless the Title IX Coordinator determines that such a course of action would be unreasonable in light of the known circumstances.

As part of the initial assessment, the Title IX Coordinator will:

- address immediate physical safety and emotional well-being;
- notify the complainant of the right to contact law enforcement, to decline to contact law enforcement, and to seek medical treatment;
- inform the complainant of the importance of preservation of evidence (i.e., medical, forensic, physical, electronic, etc.);
- ask Campus Safety to enter the incident into the university's daily crime log, if appropriate (without identifying information);
- evaluate whether to issue a timely warning consistent with the Clery Act;
- provide the complainant with information about on and off-campus resources;
- notify the complainant of the range of supportive measures;
- consider the complainant's interests with respect to supportive measures;
- provide the complainant with an explanation of the procedural options under the policy, including Informal Resolution and a Formal Resolution;
- notify the complainant of the ways the complainant may choose to participate, or decline to participate, in the various steps of the process. This will include notification that the Title IX Coordinator may, in certain circumstances, proceed without complainant's participation and that non-participation by the complainant may limit the ability of the university to respond;
- discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding;
- explain the university's policy prohibiting retaliation; and,
- if the determination has been made to notify the respondent of the report, provide the respondent with information about resources, supportive measures, and

procedural options.

No formal complaint filed by the complainant: If a complainant chooses not to file a formal complaint, the Title IX Coordinator will determine whether it is appropriate to take proactive steps to address the behavior with the respondent. In this instance, the Title IX Coordinator will not typically disclose the specifics of any report without the consent of the complainant. Alternatively, as below, the Title IX Coordinator may elect to file a formal complaint.

Formal complaint filed: If a complainant decides to file a formal complaint, the Title IX Coordinator will communicate with the respondent about the complaint, and discuss the above listed information with the respondent. When a formal complaint is initiated, the respondent and complainant will be informed of the nature of the alleged conduct and/or potential charges being investigated as detailed in Section XI.D.

A. Filing a Formal Complaint

A formal complaint is a written document filed by a complainant, or signed by the Title IX Coordinator, that alleges sexual misconduct by a respondent and requests that the university officially investigate and resolve the allegation. The formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, by in-person delivery, and must contain the complainant's physical or digital signature. In the instances when the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a Formal Resolution, and must comply with requirements for any person involved in the response and/or resolution to be free from conflicts and bias.

A formal complaint may be resolved through either an Informal Resolution or a Formal Resolution. Informal Resolution may only be offered after a formal complaint has been filed, so that the parties understand what the Formal Resolution entails and can decide whether to voluntarily attempt informal resolution as an alternative.

A formal complaint may be withdrawn if the complainant informs the Title IX Coordinator in writing that they want to withdraw the complaint or the allegations. The Title IX Coordinator may choose to withdraw a formal complaint if a respondent is no longer participating in or attempting to participate in the education or program activity of the university, the complainant submits a written request to withdraw the complaint, or specific circumstances prevent the university from gathering evidence sufficient to reach a determination. No matter the reason for the withdrawal of a complaint, the parties will be notified, simultaneously, in writing of the decision, including the reasoning.

B. Informal Resolution

The Informal Resolution process may only be pursued after a formal complaint has been filed. Informal Resolution will only occur with the voluntary, and written consent of both parties and the Title IX Coordinator. Informal Resolution is not permitted to resolve allegations that an employee (staff person, faculty member, or student worker) engaged in sexual misconduct– Title IX against a student.

Prior to initiating an informal resolution, the Title IX Coordinator will issue each party a written notice disclosing:

- the allegations;
- the requirements and procedure of the informal resolution process; and
- any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

At any time, either party has the right to withdraw from the Informal Resolution process and resolve the formal complaint through a Formal Resolution. If the parties are not able to resolve the complaint through the Informal Resolution process, the complaint would be resolved through a Formal Resolution unless the complaint is withdrawn. Once the Informal Resolution Agreement is signed, the case is considered resolved, and the Formal Resolution process is no longer an option.

The Title IX Coordinator retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case and may refer a complaint to a Formal Resolution at any time. Informal Resolutions will typically be completed within 30 calendar days of the decision to engage in Informal Resolution. Informal Resolution agreements are signed by the parties and the Title IX Coordinator and are enforced by the university.

When the respondent is a student, an Informal Resolution will only be recorded in the respondent's student file in the Student Development Office if the Resolution Agreement includes a sanction of disciplinary probation, suspension, or dismissal.

Violations of an Informal Resolution Agreement will be reviewed by the Title IX Coordinator and may be referred to a Formal Resolution or referred to the appropriate university official for further review and possible sanctioning.

C. Formal Resolution Process

The Formal Resolution may only be pursued after a formal complaint has been filed. The Title IX Coordinator will identify the potential violations and prepare the initial notification of

investigation outlining the charges to be investigated and assessed. At the completion of the investigation, the complaint will be addressed through either the Adjudicator Resolution (non-Title IX) or the Hearing Resolution (Title IX). Both parties will have the opportunity to appeal the decision regarding responsibility and any sanctions imposed. The university may delay granting a diploma otherwise earned until the completion of all phases of a Formal Resolution, including completion of an appeal and/or any sanctions imposed.

Investigation

The parties and their advisors will receive written notice that an investigation has been initiated. The notice of investigation will include:

1. the identities of the parties involved;
2. the specific section/s of the policy allegedly violated;
3. the precise conduct alleged to constitute the potential violation/s;
4. the approximate date, time, and location of the alleged incident;
5. a statement indicating that the respondent is presumed not responsible for the alleged conduct;
6. a statement that the determination of responsibility will be made at the conclusion of a Formal Resolution;
7. a notice that parties have the right to an advisor of their choice;
8. the result of an initial assessment to determine whether the allegations suggest a potential violation of sexual misconduct - Title IX, with an indication that this decision will be reviewed again when the investigators prepare their report;
9. the name of the investigator and the ability to challenge the individual for conflict of interest or actual bias;
10. the appropriate policy language prohibiting a party from knowingly making false statements or knowingly submitting false information;
11. a statement that the parties may inspect and review evidence; and
12. notice that retaliation is prohibited.

The notice shall be provided reasonably in advance of any interviews with the investigator so that the parties have sufficient time for meaningful preparation. The Title IX Coordinator, in consultation with the investigator, may amend the charges as part of the investigative process. The Title IX Coordinator will, if appropriate, issue amended charges to both parties.

The Title IX Coordinator will designate an investigator to conduct an adequate, reliable and impartial investigation. The university may engage an external investigator. In complex situations, the Title IX Coordinator may engage additional trained investigators to assist in gathering the information that will be considered by the primary investigator. The burden of

proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the university and not the parties. The interviews will be recorded by the investigator.

The parties will have an equal opportunity to present witnesses, including expert witnesses, and to submit evidence. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate and available. A reasonable timeframe will be given to submit evidence, which will be equal for both parties. The parties may submit questions to be asked of parties and witnesses. The investigator will review submitted questions and, in the investigator's discretion, may choose which questions are necessary and appropriate to the investigation and conduct any follow-up, as the investigator deems relevant. All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of university policy and can subject a student or employee to disciplinary action. Making a good faith report to the university that is not later substantiated does not constitute false or misleading information.

The Title IX Coordinator may combine multiple complaints that arise out of the same set of facts or circumstances into one investigation. Where multiple complainants or respondents are involved in the same investigation, the parties will only be provided with the appropriate portion(s) of the investigative documents that relate to the complaint(s) in which they are a party.

A person's medical, counseling/psychological, and similar treatment records are privileged and confidential documents that a party will not be required to disclose. Where a party provides written permission to share medical, counseling/psychological, and similar treatment records as part of the investigation, only the portion of the records directly related to the allegations raised in the formal complaint will be included in the case file for review by the other party and for use in the investigative process.

Evidence related to the prior sexual history of the complainant is generally not relevant to the determination of a policy violation and will only be considered in very limited circumstances. For example, to prove that someone other than the respondent committed the alleged conduct, or where the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion.

Information regarding other acts by a party will be permitted as relevant where the nature and means of those other acts may affect the credibility of the assertions in the current case. It is not required that the party have been found responsible for policy violations related to those other acts for them to be included in the current case. Any party seeking to introduce information about prior sexual history or other acts by a party should bring this information to the attention of the investigator at the earliest opportunity. While the investigators may explore relevant areas of inquiry, the Title IX Coordinator has the responsibility to make the final determination whether evidence of prior sexual history or other misconduct is relevant and should be included in the report.

If the Title IX Coordinator determines that reports of other acts by a party may be relevant, the Title IX Coordinator may offer the information to the investigator for consideration to determine whether it may be relevant. The investigator may determine whether and how to follow up on that information within the scope of the current investigation. It is ultimately the adjudicator's or hearing officer's discretion to determine whether the information is relevant in the current case.

If, at any time, the respondent agrees to a finding of responsibility to some or all of the charged conduct, the matter may be referred to a Formal Resolution (Section XI.C.) for adjudication, or if all parties agree, referred to Informal Resolution (Section XI.B.). The Title IX Coordinator will provide regular updates to all parties regarding the progress of the investigation.

Review of Evidence - Title IX Cases Only

In Title IX cases, the evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available to the complainant and respondent and their advisors, including the evidence upon which the university may not rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. The parties will have 10 calendar days to review the evidence. The parties will be offered the opportunity to review the evidence and provide a written response, no longer than 10 pages, that will be submitted to the investigator for the completion of the Investigation Report. The written response should focus strictly on the evidence provided, allowing parties to address credibility, offer exculpatory context, or point out inconsistencies.

Due to the privacy of all those involved, evidence shared in an electronic format will not be printable, downloadable or electronically shareable by the parties or their advisors. Exceptions may be made in compliance with Section 504 of the Rehabilitation Act of 1973.

Investigation Report

Once the parties have reviewed the evidence and have submitted responses, or the time period to submit such responses has passed, the investigator will complete any follow up deemed necessary, and write the investigation report. The investigator will consider whether the conduct alleged, if demonstrated by a preponderance of the evidence, would constitute sexual misconduct – Title IX, in light of the evidence gathered during the investigation, and make a recommendation to the Title IX Coordinator regarding the same. This is not a suggestion for a final determination, rather it is a determination if the alleged conduct meets the required threshold under Title IX. The Title IX Coordinator will review the recommendation of the investigator and make the final determination as to whether the conduct alleged, if demonstrated by a preponderance of the evidence, would constitute sexual misconduct – Title IX. The Title IX Coordinator will notify the parties, in writing, of the final assessment and whether or not the complaint will proceed to a hearing or be decided by an adjudicator.

The investigation report will include, but is not limited to, the following sections:

1. overview of the complaint made and summary of the investigative methodology;
2. summary of relevant information gathered, including:
 - a. timeline of incident being investigated;
 - b. complainant's account of events;
 - c. respondent's account of events;
 - d. witness accounts;
 - e. evidence gathered;
3. areas of agreement;
4. areas of disagreement;
5. assessment of whether or not the complaint meets one or more of the required elements of the definition of sexual harassment under Title IX, including rationale; and
6. appendix containing all of the collected evidence (if Title IX).

The investigation report will not include:

1. Information about the complainant's sexual predisposition or prior sexual behavior, unless:
 - a. The information is to prove that someone other than the respondent committed the alleged conduct; or
 - b. The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent

2. Information that is protected by a legally recognized privilege; and
3. A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

At the time the Title IX Coordinator shares the investigative report with the parties and their advisors, the Title IX Coordinator will include a cover letter detailing the final assessment of whether or not the conduct alleged, if demonstrated by a preponderance of the evidence, could constitute sexual misconduct - Title IX. Either party may appeal this decision. Instructions and grounds for the appeal will be shared by the Title IX Coordinator in the cover letter.

The parties have three (3) business days after receipt of the investigative report to submit in writing an appeal of the Title IX dismissal. When no appeal of the Title IX decision is filed, the parties have ten (10) calendar days beginning at the conclusion of the three-day appeal window to submit their written response to the Investigation Report. The response may include an assertion that evidence not summarized in the report, but present in the case file, should be considered as relevant.

In a case with multiple charges, if any of the charges constitute sexual misconduct - Title IX, all the charges in that case will be handled at the same time through the Hearing Resolution process.

Appeal of Title IX Dismissal

Parties have three (3) business days after receipt of the investigative report to submit in writing an appeal of a determination regarding whether the conduct constitutes sexual misconduct - Title IX. The appeal will be considered by an appropriately trained staff member designated by the Title IX Coordinator. The appeal decision will be communicated in writing to the parties, their advisors, and the Title IX Coordinator. The decision will also indicate the path for complaint resolution: Hearing Resolution or Investigator Resolution. From the date the appeal decision letter is sent to the parties, the parties have ten (10) calendar days to submit a written response to the Investigation Report. The written response will be included for consideration by the Hearing Chair or the adjudicator in the resolution process.

Adjudicator Resolution (Non-Title IX)

The Adjudicator Resolution process will be used to resolve cases that do not include a charge of sexual misconduct - Title IX. The Title IX Coordinator will assign the adjudicator. The adjudicator will make a determination, by a preponderance of the evidence, whether there is sufficient information to support a finding of responsibility. The adjudicator's finding, and

the rationale for the finding, will be included in the final determination report that will be shared with the parties by the Title IX Coordinator.

The adjudicator should first evaluate the quality of the evidence. The adjudicator should consider all of the evidence regardless of who provided it. Any evidence the adjudicator finds to be of high quality should be given more weight than any evidence the adjudicator finds to be of low quality. Quality may, or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness may be sufficient to establish a fact.

The adjudicator will evaluate all admissible, relevant evidence for weight or credibility. Credibility is not based solely on observing demeanor, but also considers detail, interest or bias, corroboration where it would reasonably be expected to exist, the circumstances of the disclosure, and the nature of the relationship. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the adjudicator, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

The adjudicator will not consider or rely on:

1. Information about the complainant's sexual predisposition or prior sexual behavior, unless:
 - a. The information is to prove that someone other than the respondent committed the alleged conduct; or
 - b. The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent
2. Information that is protected by a legally recognized privilege; and
3. A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

A party's answers to questions can and should be evaluated by the adjudicator in context, including taking into account that a party may experience stress while trying to answer questions, or other factors that may affect the party's ability to recall the specific details of an incident in sequence.

If the adjudicator determines by a preponderance of the evidence that there is **insufficient**

information to find the respondent responsible for violating this or other policies, the complainant may appeal this outcome following the procedures set forth in Section XI.I.

If the adjudicator determines, by a preponderance of the evidence, that there is **sufficient** information to find the respondent responsible for violating this or other policies, the adjudicator will consult with Student Development in complaints involving students, and human resources in complaints involving employees to determine the appropriate sanction. The Title IX Coordinator will notify the Registrar to place a hold on the respondent's transcript until the sanction has been issued by the adjudicator.

Adjudication

The adjudicator is determined by the status of the respondent:

1. For reports against students or student groups, the adjudicator is typically the vice president for student development.
2. For reports against employees, the adjudicator is typically a member of the human resources office.

When the typical or alternate adjudicator is unable to serve, or is not otherwise designated in this policy, the Title IX Coordinator will select a trained individual to be the adjudicator with notice to the parties.

The adjudicator must be a neutral and impartial decision-maker. The parties will be informed, in writing, of the specific adjudicator assigned to determine responsibility and impose sanctions, if any. Within one (1) calendar day of receiving the notice of the designated adjudicator, a party may submit a written request to the Title IX Coordinator to replace the named adjudicator, if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated adjudicator will only be replaced if the Title IX Coordinator determines that their bias precludes impartiality or constitutes conflict. Additionally, an adjudicator who has reason to believe they cannot make an objective determination must recuse himself or herself from the process.

For a range of possible sanctions and factors considered by the adjudicator, see Section XI.H.

Notice of Outcome

The adjudicator's written determination of the outcome, the sanction and the rationale for each will be provided to each party simultaneously. The parties will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

The outcome letter will also provide each party with their appeal options. If, due to extenuating circumstances, there are any changes to the outcome, both parties will be simultaneously notified at the earliest possible time. The university may also notify appropriate university officials, including a direct supervisor, of a sanction, as necessary to implement the outcome and/or sanctions.

Hearing Resolution (Sexual Misconduct - Title IX)

A Hearing Resolution will be used to resolve cases that include charges of sexual misconduct - Title IX. If such cases also include other charges, all the charges in that case will be handled at the same time through the Hearing Resolution process. A Hearing Resolution includes a pre-hearing conference, a live hearing, decisions about responsibility and sanctioning by the Hearing Chair, and an optional appeal process.

A single Hearing Chair will typically conduct the live hearing. The Title IX Coordinator chooses a trained, impartial Hearing Chair. In some cases, at the discretion of the Title IX Coordinator, a three-person Hearing Panel will be convened to conduct the hearing, whose members are selected by the Title IX Coordinator. When a three-person Hearing Panel is convened, one of the panelists will serve in the role of the Hearing Chair and a majority vote is required to make the determination of responsibility. The Hearing Chair and Hearing Panelists cannot be the individual assigned in the role of the Title IX Coordinator for the case, nor can they have acted in the role of an investigator or served in any other function that would pose a potential conflict of interest.

Pre-Hearing Conference

Each party will have their own pre-hearing conference. The Title IX Coordinator will communicate to the parties, their advisors, and the Hearing Chair the date, time, and format for their Pre-Hearing Conference. The Title IX Coordinator, the Hearing Chair, and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Hearing Chair their list of witnesses to appear at the hearing, the identity of any requested witnesses that

were not questioned during the investigation, their request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigator and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted. The Hearing Chair will address any requests to present new evidence and new witnesses at the Pre-Hearing Conference.

The advisor is strongly encouraged to discuss lines of questioning with the Hearing Chair at the Pre-Hearing Conference to obtain guidance from the Hearing Chair on relevancy prior to the hearing. The Hearing Chair will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After reviewing each party's witness list, the Hearing Chair may, at his/her discretion, add names of other witnesses contained in the report for the purpose of appearing at the hearing and submitting to cross-examination.

After the conclusion of the Pre-Hearing Conferences, the Title IX Coordinator will provide each party and their advisor with written notice of the date, time, and manner for the hearing.

Live Hearing

The live hearing may be conducted with all parties physically present in the same geographic location or, at the request of a party, they may provide testimony without encountering the other party in person, and to review testimony provided by the other party in a similar manner. This may be done through video conference or closed-circuit television. Regardless of format, the hearing will be recorded, and the recording will be the property of the university. It will be made available to the parties for review and inspection upon their request during the pendency of the process.

Those persons present during the entirety or at designated portions of the hearing include: complainant, complainant's advisor; respondent, respondent's advisor; Hearing Chair/Panel; Title IX Coordinator; General Counsel; witnesses; other appropriate individuals at the discretion of the Title IX Coordinator (for example, an interpreter).

The Hearing Chair will provide an introduction detailing the purpose of the hearing, have those present identify themselves and their role, remind all parties of the expectation to be

candid and honest in their responses, and provide a brief overview of the procedure and the anticipated order of the hearing.

The advisors will be responsible for orally asking relevant questions, including those questions which challenge credibility, to the other party or parties and any witnesses directly, in real-time and in a manner that, in the Hearing Chair's sole discretion, is not inappropriate, harassing, intimidating, irrelevant, or redundant. A party will never conduct cross-examination personally. Only relevant questions may be asked of a party or witness. Relevant questions are those tending to prove or disprove a fact at issue. Questions that are not relevant include:

1. Repetition of the same question;
2. Questions related to information about the complainant's sexual predisposition or prior sexual behavior, unless:
 - a. The information is to prove that someone other than the respondent committed the alleged conduct; or
 - b. The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
3. Questions related to information that is protected by a legally recognized privilege; and
4. Questions related to a party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

The Hearing Chair/Panel will objectively evaluate all evidence to determine its relevance, materiality, weight and reliability.

Before a complainant, respondent, or witness answers a question by an advisor, the Hearing Chair will first determine whether the question is relevant and briefly explain any decision to exclude a question as not relevant, or request rephrasing of the question. The Hearing Chair is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing. The Hearing Chair may later send to the parties any revisions to the explanation of relevance that was provided during the hearing.

If a party does not have an advisor present at the live hearing, the university must provide, without fee or charge to the party, an advisor of the university's choice to conduct cross-examination. The university appointed advisor will conduct the cross-examination using the questions provided by the party. The university appointed advisor is not responsible for knowing all details of the case and creating relevant questions. Parties therefore are strongly encouraged to write questions ahead of the live hearing.

The Hearing Chair/Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Opening and closing statements are permitted but not required. If given, the statement must be read or stated by the party and not their advisor. Statements are not to exceed 5 minutes in length.

Decision/Finding/Sanctions

Decisions regarding responsibility will be made by the Hearing Chair/Panel and communicated to the parties and their advisors in writing within fifteen (15) business days from the conclusion of the live hearing. When a three-person Hearing Panel is convened, one of the panelists will serve in the role of the Hearing Chair and a majority vote is required to make the determination of responsibility.

The Hearing Chair/Panel should first evaluate the quality of the evidence. The Hearing Chair/Panel should consider all of the evidence regardless of who provided it. Any evidence the Hearing Chair/Panel finds to be of high quality should be given more weight than any evidence the Hearing Chair/Panel finds to be of low quality. Quality may, or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness may be sufficient to establish a fact.

The Hearing Chair/Panel will evaluate all admissible, relevant evidence for weight or credibility. Credibility is not based solely on observing demeanor, but also considers detail, interest or bias, corroboration where it would reasonably be expected to exist, the circumstances of the disclosure, and the nature of the relationship. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the Hearing Chair/Panel, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

The Hearing Chair/Panel will not consider or rely on:

1. Information about the complainant's sexual predisposition or prior sexual behavior, unless:
 - a. The information is to prove that someone other than the respondent committed the alleged conduct; or
 - b. The information concerns specific incidents of the complainant's prior

sexual behavior with respect to the respondent and are offered to prove consent

2. Information that is protected by a legally recognized privilege; and
3. A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

A party's answers to questions can and should be evaluated by the Hearing Chair/Panel in context, including taking into account that a party may experience stress while trying to answer questions, or other factors that may affect the party's ability to recall the specific details of an incident in sequence.

The Hearing Chair/Panel will also determine the sanctions. In determining the sanctions, the Hearing Chair/Panel will consult with appropriate university staff members:

- For reports against students or student groups, the Office of Student Development;
- For reports against staff, the office of human resources;
- For reports against faculty, the appropriate assistant dean or respective vice president for academic affairs.

For a range of possible sanctions, see below.

The written decision will include the following:

1. identification of the allegations potentially constituting policy violations;
2. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications of the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. summary of statements made at the hearing,
4. findings of fact supporting the determination;
5. conclusions regarding the application of the Policy to the facts;
6. a statement and rationale as to the finding for each allegation, including a determination regarding responsibility;
7. any disciplinary sanctions imposed on the respondent;
8. whether additional remedies will be provided to the complainant designed to restore or preserve the complainant's equal access to the university's educational programs or activities; and
9. the opportunity for appeal.

The university will inform the parties no later than 24 hours before a decision is rendered regarding the timeline of the outcome's release. Alongside the notice of the outcome, the university will offer community mental health and, if applicable, on-campus resources equitably to both parties. The outcome must not be delivered to a party at the end of the day or on a weekend or holiday to ensure that the parties may access supportive services. The written decision will be provided to the parties simultaneously.

When remedies are provided, they will be monitored by the Office of Student Development in the case of students and human resources in the case of employees throughout the complainant's enrollment, employment, and/or engagement with the university. The availability of a particular remedy may depend on the university's current relationships with the complainant or respondent.

D. Possible Sanctions

In determining the sanctions, the following factors will be considered, to the extent the information is available in the case file: (1) the respondent's prior conduct history; (2) how the university has sanctioned similar incidents in the past; (3) the nature and violence of the conduct at issue; (4) the impact of the conduct on the complainant; (5) the impact of the conduct on the community, its members, or its property; (6) whether the respondent has accepted responsibility for his/her actions; (7) any other mitigating or aggravating circumstances, including the university's values.

The university will hold a hearing related to sanctions requested by either the complainant or respondent party.

The imposition of sanctions will typically take effect immediately, but may be stayed at the discretion of the Hearing Chair/Panel in consultation with the Title IX Coordinator. A respondent who separates from the university under any circumstance is not eligible for re-admittance or re-employment until they have successfully completed the terms of any sanctions imposed.

E. Sanctions for Students

For students, the sanction may include removal from specific courses or activities, removal from university housing, suspension from the university, or dismissal. While sanctions may be of a punitive nature, they are intended to be educational as well. The possible sanctions that may be issued, individually or in combination, for students found responsible for sexual misconduct include:

1. **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.
2. **Warning.** A notification that a student has committed certain violations and that continuance of such conduct will result in more severe disciplinary action.
3. **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.
4. **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 will 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.
5. **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.
6. **Disciplinary Service.** Service hours in a given area as a way to give back to the campus or local community.
7. **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.
8. **University Restriction.** Restriction from certain buildings, events, activities, etc.
9. **University Housing Restriction.** Residence re-assignment, removal from university housing, or restrictions on where a student may live.
10. **No Trespass or No-Contact Directives.**
11. **Conditions Upon Presence on Campus or at University Events.**
12. **Removal or Non-Renewal of Scholarships or Honors.**
13. **Temporary or Permanent Revocation of Degree.**
14. **Revocation of Admission to the University.**
15. **Disciplinary Probation.** A specified period of time (ordinarily no less than the equivalent of one semester) during which a student is not in good disciplinary standing with the university.
16. **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).

17. **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 will 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 will automatically be recommended for suspension for at least one full semester.
18. **Suspension.** Denial of the opportunity to continue at the university for a specified period of time (ordinarily no less than one semester), 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. Upon return from suspension, the student will be placed on probationary status for one calendar year following completion of suspension. This sanction is noted permanently on the student's transcript.
19. **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. This sanction is noted permanently on the student's transcript.
20. **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..

For a student employee who is acting within the scope of their employment at the time of the incident, the sanction may include any permissible sanction for students or employees.

F. Sanctions Student Groups

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

1. **Club/Organizational Notification.** Written or verbal notification to club or organization representatives, officers or advisers.
2. **Social Probation.** Probationary status during which time a club/organization is restricted from participating in social events, including hosting as an organization.
3. **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.
4. **Educational Requirements for Club/Organization Members.**
5. **Required Additional Oversight of Club/Organization Activities.**
6. **Temporary Loss of Funding and/or Loss of Recognition by the University.**
7. **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.
8. **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.
9. **Termination of Student Organization.** Permanent separation of a student club/organization from the university and removal of recognition of the club/organization.

G. Sanctions for for Employees

For employees, the sanctions may include but are not limited to:

1. training;
2. referral to counseling;
3. warning;
4. reprimand;
5. conditions upon presence on campus or at university events;
6. no trespass or no-contact directives;
7. temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
8. 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;
9. reassignment or removal from an elected or appointed position;
10. temporary suspension without pay;
11. transfer or change of job or responsibilities;
12. formal censure;

13. non-renewal of contract;
14. demotion; and/or
15. termination of employment.

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

1. warning;
2. reprimand;
3. relevant training;
4. referral to counseling;
5. conditions upon presence on campus or at university events;
6. no trespass or no-contact directives;
7. temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
8. loss of salary or benefit such as sabbatical or research or travel funding;
9. 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;
10. formal censure;
11. demotion;
12. 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;
13. removal from certain responsibilities (e.g., supervising employees);
14. paid leave or unpaid leave;
15. non-renewal of contract;
16. reassignment or removal from an elected or appointed position;
17. termination of tenure; and/or
18. termination of employment

H. Sanctions for Non-students and Non-employees

Appropriate sanctions may include, but are not limited to, the following: warning, counseling, training, restricted campus access, restricted participation in university activities and events.

I. Appeal of Finding and/or Sanction

Regardless of whether a complaint is resolved through the Investigator Resolution or the Hearing Resolution, both the complainant and respondent may appeal the outcome,

including a finding of responsibility (or no responsibility) and/or the sanction. In a request for an appeal, the burden of proof lies with the party requesting the appeal. Dissatisfaction with the outcome of the investigation is not grounds for appeal. The limited grounds for appeal are as follows:

1. procedural irregularity that affected the outcome of the matter;
2. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. the Title IX Coordinator, investigator(s), adjudicator, or Hearing Chair/Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
4. The decision was clearly erroneous based on the evidential record.

The Appeal Officer will be designated by the Title IX Coordinator, who will notify the parties of the individual so designated.

The Appeal Officer must be a neutral and impartial decision maker. The parties will be informed, in writing, of the specific Appeals Officer. Within one (1) calendar day of receiving the notice of the designated Appeals Officer, the complainant and the respondent may submit a written request to the Title IX Coordinator to replace the named Appeals Officer if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated Appeals Officer will only be replaced if the Title IX Coordinator determines bias precludes impartiality or constitutes conflict. Additionally, an Appeals Officer who has reason to believe they cannot make an objective determination must recuse themselves from the process.

A complainant or respondent must submit a written appeal to the Title IX Coordinator within five (5) business days of receipt of the Notice of Outcome. The written appeal must include the specific basis for the appeal and any information or argument in support of the appeal. Upon receipt of the appeal, the Title IX Coordinator will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted to the Title IX Coordinator within three (3) business days from the other party's receipt of the appeal. Appeal responses are shared with the other parties, but no reply is permitted.

The Appeals Officer will make a decision regarding the written appeal and, within twenty (20) business days of receipt of all appeal documents, notify the complainant and the respondent of the outcome and the rationale for the outcome. The Appeal Officer may affirm the finding(s);

alter the finding(s); alter the sanctions; or request that additional steps be taken.

Appeal decisions are final. All appeal deadlines may be extended for good cause by the Title IX Coordinator. Any extension will be communicated to the parties.

XI. Time Frames for Resolution

The university is committed to the prompt and equitable resolution of allegations of sexual misconduct. 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 sexual misconduct that is alleged and the status of the parties involved. The time frames for each phase of the different procedures are as follows:

A. Allegations of Non-Title IX sexual misconduct

Specific time frames for each phase of the complaint resolution process for complaints involving allegations of non-Title IX sexual misconduct are set forth 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
- Adjudicator 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

B. Allegations of Title IX sexual misconduct

Specific time frames for each phase of the complaint resolution process for complaints involving allegations of Title IX sexual misconduct are set forth 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 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 temporarily delay 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 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 incident. There is no statute of limitation for reporting sexual misconduct 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 sexual misconduct, 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.

XII. RECORDS

As required under Title IX regulations, the university maintains records of all reports, complaints, supportive measures, investigations, evidence, informal resolutions, investigator decisions, hearings, hearing records, hearing outcomes, sanctions, remedies, and appeals governed by this policy. Such records will be maintained by the Title IX Coordinator for a period of at least seven (7) years after the last party graduates, leaves employment of the university, or otherwise is no longer engaged in a university program or activity. Records are accessible only to the extent permissible under applicable records confidentiality and disclosure laws, including FERPA, 20 U.S.C. 1232g, and the Clery Act, 20 U.S.C. 1092(f). At the conclusion of the process, consistent with confidentiality requirements, access to all initial and final investigative documents and reports will be restricted once the appeals process has been completed.

The university also maintains all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process for a period of at least seven (7) years. These materials are available on the university's website, as required under Title IX regulations.

XIII. EDUCATION AND PREVENTION PROGRAMS

The university recognizes that the most effective way to achieve a community free of sexual misconduct is to equip all community members with the skills to recognize and prevent these prohibited forms of conduct.

Throughout the year, the university offers educational programs to promote awareness of sexual misconduct. Prevention programs include an overview of the university's policies and procedures, relevant definitions, including sexual misconduct, consent, discussion of the impact of alcohol and illegal drug use, safe and positive options for bystander intervention, and information about risk reduction. Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation.

The university offers regular primary prevention programs and ongoing education and awareness programs for all students and employees. Employees who play a key role in implementing the policy, including those faculty and staff who are likely to receive reports of sexual misconduct will receive regular training to assist with a timely, sensitive, respectful, and effective institutional response. The university is committed to ensuring that all employees understand how to respond to these reports of this nature.

XIV. POLICY MAINTENANCE

The university will review this annually.

XV. COMPLIANCE

TITLE IX COMPLIANCE

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex, including sexual and gender-based harassment and violence, sexual assault, dating violence, domestic violence and stalking in any federally funded education program or activity. The university will not tolerate such conduct. The university's Title IX Coordinator manages the resolution of all conduct prohibited by this policy. To make a report or discuss any aspect of this policy, please contact the Title IX Coordinator.

CLERY ACT COMPLIANCE

The Clery Act, as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), imposes certain requirements on the university's response to Sexual Assault, Dating Violence, Domestic Violence, and Stalking. Post-secondary institutions who receive federal funding are required to report crime statistics in their daily crime log, Annual Security Report, and to the U.S. Department of Education. Key response and procedural protections under the Clery Act include issuing a timely warning when there is a serious or ongoing threat, instituting protective measures (referred to as supportive measures below), using trained and impartial investigators and decision-makers, reaffirming the right of individuals to decide whether to report or seek assistance from law enforcement and/or campus authorities, allowing individuals to be accompanied by an advisor of their choice during the process, allowing timely and equal access to any information used in a disciplinary proceeding, and providing written notice of the outcome and rationale.