



Title IX and Other Sexual Misconduct Policy

(Revised July, 2024)

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Nothing in this Policy is intended to create or define the terms of a contract, express or implied, between Harding University and any student, employee, independent contractor, vendor, or other individual or entity. The University reserves the right to alter, amend, or deviate from the provisions and procedures in this Policy at any time.

Harding University Title IX Sex Discrimination Policy

I. Introduction

Harding University's (the "University") mission is to transform learners for global impact by engaging minds and nurturing faith within a deeply connected community. The University respects the inherent worth of each member of the community.

This Policy outlines the University's community expectations to ensure a campus free from Sex Discrimination, the steps for recourse for those individuals who have been subject to Sex Discrimination, and the procedures for determining whether a violation of University policy has occurred. This Policy applies to the following forms of Sex Discrimination: Non-Harassment Discrimination (Differential Treatment and Retaliation) and Sexual Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation), as those terms are defined in this Policy. Where the content of this Policy conflicts with other similar policies set forth in the [student](#) and/or Faculty and Employee Handbook ([Section 1-1](#)), the requirements of this Policy shall prevail.

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

While some portions of this Policy may address intimate or sexual activities outside of marriage, such discussions should not be seen as condoning these actions. At the same time, an individual's engagement in intimate or sexual activities outside of marriage does not excuse Sexual Harassment carried out against that individual. The University is committed to protecting the members of its community against Sexual Harassment—regardless of the context in which it arises.

II. Notice of Non-Discrimination

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

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. Sexual Harassment is a form of sex discrimination. In accordance with Title IX and its regulations, the University's Title IX Policy addresses the University's prohibition of the following forms of sex discrimination: Non-Harassment Discrimination (Differential Treatment and Retaliation) and Sexual Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation).

The University prohibits unlawful sex discrimination in any form. The University will promptly and equitably respond to all reports of Sex Discrimination. To report information about conduct that may constitute Sex Discrimination or to make a complaint of Sex Discrimination, please contact the Title IX Coordinator. To report information about conduct that may constitute discrimination under Section 504 of the Rehabilitation Act of 1973, please contact the Director of Disability Services and Educational Access:

Bridget Smith
 Director of Disability Services and Educational Access
 915 E. Market Ave.
 Student Center, Office 239B
 Searcy, AR 72149
 501-279-4283
 bdsmith@harding.edu

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

Kevin Davis
 University Title IX Coordinator
 Assistant Director of Public Safety
 Harding University
 915 E. Market Ave.
 Kendall Hall, Office 113
 Searcy, AR 72149
 501-279-5000
 kdavis@harding.edu

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

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

This Policy applies to Sex Discrimination committed by or against a University community member, including conduct occurring on campus or University property, conduct that occurs at University-sanctioned events or programs that take place off campus, such as study abroad and internships, and off campus conduct that may (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Although the University maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the University has no tolerance for any unlawful form of Sexual Harassment committed against any individual, regardless of the individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of Sexual Harassment, even when the individual has a concern that they have engaged in conduct that may violate provisions of the University's [Student Code of Conduct, section 2](#), or the [Employee Handbook, Section 1-9 relating](#), to sexual activity. See Section X.D. Amnesty below for more information.

IV. Title IX Coordinator and Title IX Team

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

- Coordinating specific actions to prevent Sex Discrimination and ensure equal access to the University's education program or activity;
- Ensuring University policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent or another individual, about the procedural options and processes used by the University and about resources available at the University and in the community;
- Monitoring the University's education program or activity for barriers to reporting information about conduct that reasonably may constitute Sex Discrimination and taking steps reasonably calculated to address such barriers;
- Training and assisting University employees regarding how to respond appropriately to a report of Sex Discrimination;
- Monitoring full compliance with all procedural requirements and timeframes 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:

Kevin Davis
 University Title IX Coordinator
 Assistant Director of Public Safety
 Harding University
 915 E. Market Ave.
 Kendall Hall, Office 113
 Searcy, AR 72149
 501-279-5000
 kdavis@harding.edu

The University's Title IX Team includes a Deputy Title IX Coordinator for Employees who coordinates the University's response to formal complaints by employees against other employees and assists with employee respondent cases.

Amie Carter
 Deputy Title IX Coordinator for Employees
 Assistant Director of Human Resources
 Harding University
 915 E. Market Ave.
 Ezell Building, Office 131
 Searcy, AR 72149
 501-279-4027
ascarter@harding.edu

The University's Title IX Team includes two Deputy Title IX Coordinators who coordinate the University's response to formal complaints by students and assists with student respondent cases.

Debra Nesbitt
 Deputy Title IX Coordinator for Students
 Residence Life Coordinator, Pryor Hall
 Harding University
 915 E. Market Ave.
 Pryor Hall RLC Office
 Searcy, AR 72149
 501-279-5900
dnesbitt@harding.edu

Amanda Colon
 Deputy Title IX Coordinator for Students
 Residence Life Coordinator, Graduate Hall
 Harding University
 915 E. Market Ave.
 Graduate Hall RLC Office
 Searcy, AR 72149
 501-305-8433
aecolon@harding.edu

The University's Title IX team also includes other appointed staff and faculty designees. These team members have a shared responsibility for consulting with, and supporting, the Title IX Coordinator and may serve as the Title IX Coordinator's designee. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by

the Title IX Coordinator or the Title IX Coordinator's designee. Members of the team may also be called upon to investigate or adjudicate complaints of Sex Discrimination, decide appeals, and/or facilitate informal resolutions. The Title IX Coordinator has authority to consult with each individual appointed to serve in a role in the complaint resolution process to ensure compliance with the law and this Policy and to promote consistency in the University's processes.

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

V. Definitions

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

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

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

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

Sex Discrimination as used in this Policy means the following forms of misconduct: Non-Harassment Sex Discrimination (Differential Treatment and Retaliation) and Sexual Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking), as each of those terms is defined below in Section VI. Prohibited Conduct.

Non-Harassment Sex Discrimination as used in this Policy means the following forms of misconduct: Differential Treatment and Retaliation as each of those terms is defined below in Section VI. Prohibited Conduct.

Sexual Harassment as used in this Policy means the following forms of misconduct: Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual

Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each of those terms is defined below in Section VI. Prohibited Conduct.

On the basis of sex as used in this Policy means when conduct is sexual in nature or is referencing or aimed at a particular sex.

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

The definition of consent is subject to the following:

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

- Consent can only be given if one is of legal age. In Arkansas, the legal age of consent is 16.

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

Incapacitation is the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the ingestion of alcohol or other drugs, incapacitation requires more than being under the influence of alcohol or other drugs; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol and other drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the respondent or a reasonable, sober person in the respondent's position.

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

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

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

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

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

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

Impermissible evidence means the following types of evidence: (1) evidence that is protected under a privilege as recognized by Federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality; (2) a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the complaint resolution process; and (3) evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to provide consent to the alleged Sexual Harassment.

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

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

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

VI. Prohibited Conduct

The University prohibits the following forms of Sex Discrimination: Non-Harassment Sex Discrimination (Differential Treatment and Retaliation) and Sexual Harassment (Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking), as each term is defined below. Aiding others in acts of Sex Discrimination also violates this Policy.

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

A. Non-Harassment Sex Discrimination

i *Differential Treatment*

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

Examples of Differential Treatment include:

- Giving prohibited consideration to an individual's sex in deciding whether to offer an applicant a job interview or an employee a promotion;
- Requiring that members of a particular sex meet higher standards for advancement or promotion;
- Denying a student the opportunity to participate in an educational activity because of his or her sex.

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

ii *Retaliation*

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

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

B. Sexual Harassment

Sexual harassment and other harassment on the basis of sex that satisfies one or more of the following definitions:

i *Quid Pro Quo Harassment*

Quid Pro Quo Harassment occurs when an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity, including a student-employee, explicitly or implicitly conditions the provision of an aid, benefit, or service of the University on an individual's

participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

ii *Hostile Environment Harassment*

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

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

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

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

- The degree to which the conduct affected the complainant's ability to access the University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

- The location of the conduct and the context in which the conduct occurred;
- Other Sex-Based Harassment in the University's education program or activity;
- Whether the conduct was merely a discourteous, rude, or insensitive statement; and
- Whether the speech or conduct deserves the protection of academic freedom.

iii *Sexual Exploitation*

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

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

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

iv *Sexual Assault*

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

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

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

v *Domestic Violence*

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

While not exhaustive, the following are examples of conduct that can constitute Domestic Violence when committed by a current or former spouse or intimate partner of the victim or a person similarly situated to a spouse of the victim: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

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

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

vi *Dating Violence*

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

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

vii *Stalking*

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

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, and/or email or other electronic communications, including social media;
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;

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

- 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.

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

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

VII. Confidentiality

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

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

A. Confidential Employees and External Confidential Resources

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

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

Confidential Employees

- Counseling Center Employees. The Counseling Center is located in McInteer Building Room 313. Ph 501-279-4347

Some confidential employees serve in multiple roles on campus such as teaching a course, as a social club sponsor, as an academic club sponsor, or as a coach. If you are seeking assistance from one of the confidential employees in their role as a confidential employee, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential employee.

Other External Confidential Resources

- National Sexual Assault Hotline 1-800-656-4673
- White County Domestic Violence Prevention, Inc. provides victim advocacy assistance and also operates the Hope Cottage battered women's facility. The hotline number is 501-278-4673. Please note that if a concern is reported only to a confidential employee or other external confidential resource and not to a non-confidential employee at the University, the University will be unable to provide certain supportive measures that would require involvement from the University (such as issuing a no-contact directive), conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential employee may later decide to make a complaint to the University or report the incident to local law enforcement.

B. Obligations of Confidential Employees

When a person informs a confidential employee of conduct that reasonably may constitute Sex Discrimination, the confidential employee must explain to the person that the employee is a confidential employee and is not required to notify the Title IX Coordinator about the conduct. The confidential employee also must explain to the person how to contact the Title IX Coordinator and how to make a complaint of Sex Discrimination. The confidential employee must inform the person that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the complaint resolution process. Confidential employees will be required to attest periodically that they are meeting the obligations set forth in this Section.

C. Non-Confidential Communications

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

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

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

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

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

D. Requests for Confidentiality or Non-Action

When the University receives a report of Sex Discrimination, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the University does not

require an individual to begin or participate in a complaint resolution process or to report to local law enforcement. However, based on the information gathered, the University may determine that it has a responsibility to move forward with a complaint resolution process (even without the participation of the complainant).

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

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

If, after considering these factors, the Title IX Coordinator determines that: (1) the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or (2) the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator will generally initiate a complaint. The Title IX Coordinator initiating a complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent.

If the Title IX Coordinator will be initiating a complaint, the Title IX Coordinator will notify the complainant before proceeding and will appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures. At the complainant's request, the Title IX Coordinator may communicate to the

respondent that the complainant asked the University not to investigate and that the University determined it needed to do so. A complainant can choose not to participate in any complaint resolution process. In instances where the University moves forward with a complaint resolution process without the participation of the complainant, the complainant will have the same rights as provided to a complainant under this Policy.

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

E. Clery Act Reporting and Timely Warning

Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individual involved in an incident.

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

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

F. Public Awareness Events

From time to time the University may hold public events to raise awareness about Sex-Based Harassment. Employees who attend a public awareness event on University campus or through an online platform are legally required to report information regarding Sex Discrimination, including Sexual Harassment, to the Title IX Coordinator.

If the Title IX Coordinator is notified of conduct that reasonably may constitute Sexual

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

G. Steps to Protect Privacy of Parties and Witnesses

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

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

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

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

VIII. Immediate and Ongoing Assistance Following an Incident of Sex Discrimination

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

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

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

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

IX. Reporting Sex Discrimination

A. Reporting to the University

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

Office of Student Life
Student Center Room 218
501-279-4442

Kevin Davis
University Title IX Coordinator
Assistant Director of Public Safety
Harding University
915 E. Market Ave.
Kendall Hall, Office 113
Searcy, AR 72149
501-279-5000
kdavis@harding.edu

Amie Carter

Deputy Title IX Coordinator for Employees
Assistant Director of Human Resources
Harding University
915 E. Market Ave.
Ezell Building, Office 131
Searcy, AR 72149
501-279-4027
ascarter@harding.edu

Debra Nesbitt
Deputy Title IX Coordinator for Students
Residence Life Coordinator, Pryor Hall
Harding University
915 E. Market Ave.
Pryor Hall RLC Office
Searcy, AR 72149
501-279-5900
dnesbitt@harding.edu

Amanda Colon
Deputy Title IX Coordinator for Students
Residence Life Coordinator, Graduate Hall
Harding University
915 E. Market Ave.
Graduate Hall RLC Office
Searcy, AR 72149
501-305-8433
aecolon@harding.edu

Department of Public Safety
501-279-5000
Kendall Building

Reports can be made by telephone, via email, via mail, or in person. Reports may be made at any time, including non-business hours by phone, email, mail, or the University's website.

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

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

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

i *Employee Reporting Obligations*

All University employees who are not confidential employees and who obtain or receive information about conduct that reasonably may constitute Sex Discrimination must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator.

Incidents that must be reported by University employees include:

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

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

Employees who receive such reports of Sex Discrimination should not attempt to “investigate” the allegation or require the complainant/reporting individual to provide all of the details surrounding the alleged misconduct. To the extent the complainant/reporting individual provides details, that information should be provided to

the Title IX Coordinator. Upon receiving a report of alleged or possible Sex Discrimination, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken, consistent with the complaint resolution process and this Policy.

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

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

ii *Anonymous Reports*

The University will accept anonymous reports of Sex Discrimination. Reports may be filed anonymously using the online reporting form: <https://www.harding.edu/life-at-harding/campus-safety/tips/> or tip hotline at 501-305-8237. The University will likely be limited in its ability to investigate an anonymous report or take responsive action unless sufficient information is provided to enable the University to conduct a meaningful investigation. The individual making the report is encouraged to provide as much detailed information as possible.

iii *Mandatory Reporting Concerning Minors and Vulnerable Adults*

Under Arkansas law, all University employees are mandated reporters of suspected child abuse and maltreatment. Any University employee who has reasonable cause to suspect that a child has been subjected to child maltreatment, including abuse, sexual abuse, neglect, Sexual Exploitation, or abandonment; died as a result of child maltreatment; or died suddenly or unexpectedly; or who observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, must immediately report the maltreatment to the Child Abuse Hotline (1-800-482- 5964); (TDD 1-800-843-6349). See Arkansas Statutes Section 12-18-402. After reporting to the Child Abuse Hotline, University employees must also notify Campus Safety and the Title IX Coordinator if the report involves the University campus or individuals in the campus community. Additionally, any University employee who becomes aware of the abuse or neglect of a vulnerable adult on campus or University property or in connection with any University event, program, or activity must report it

immediately to the Title IX Coordinator and to the state Adult Maltreatment Hotline at 1-800-482-8049.

B. Reports to Law Enforcement

Some types of Sex Discrimination prohibited by this Policy, such as Sexual Assault, Domestic Violence, Dating Violence, Stalking, and certain forms of Sexual Exploitation, also may constitute criminal conduct. Individuals who believe they may have been subjected to criminal sexual conduct are strongly encouraged to notify local law enforcement authorities or the Department of Public Safety. If the individual requests, campus authorities will assist in notifying law enforcement authorities. The University will, at the direction of law enforcement, provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with criminal conduct that violates this Policy. Individuals also have the option to decline to notify law enforcement.

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

If you would like to report criminal sexual conduct to law enforcement, the Searcy Police Department can be contacted by calling 911 or 501-268-3531. The White County Sheriff's Department can be reached at 501-279-6279.

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

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

Orders for Protection

Orders for protection, sometimes called protective orders or restraining orders, are legal orders issued by a state court that provide protection from domestic or family violence, stalking, harassment, or a sex offense. The Arkansas Judicial Branch is responsible for issuing orders for protection. A victim may seek an order for protection by going to the Circuit Court clerk in their county.

Individuals seeking an order for protection may obtain assistance from several organizations, including Women & Children First, <https://www.wcfarkansas.org/order-of-protection/>, or call 501-376-3219 or toll free 800-332-4443. Video instructions for seeking an order of protection are available at:

<https://www.arcourts.gov/administration/domestic-violence/how-to-get-an-order-of-protection>

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 Office of Student Life.

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 the Title IX Coordinator who will work in conjunction with the Office of Student Life. The University will fully cooperate with any protective order issued by criminal, civil, or tribal court.

D. Amnesty

The University recognizes that sometimes an individual may be reluctant to report an instance of Sex Discrimination or participate in a complaint resolution process out of concern that other conduct relating to the incident (e.g., use of alcohol or drugs or engaging in sexual contact outside of marriage) involves a violation of the University Student Code of Conduct or Standards of Conduct in the Employee Handbook. The University's overriding concern is for the safety of its students and employees, and the University strongly encourages all individuals to report any instance of Sex Discrimination. Therefore, to encourage reporting, an individual who reports a violation of this Policy in good faith or who participates in a complaint resolution process under

this Policy will not be disciplined by the University for their own personal possession or consumption of alcohol or drugs or other policy violations in connection with the reported incident, except as outlined in this Section.

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

E. Emergency Removal

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

F. Administrative Leave

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

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

X. General Provisions for Complaint Resolution Process

When the University receives a complaint of an alleged violation of this Policy, the University will promptly and equitably respond to the complaint in accordance with the provisions and procedures set forth below. The University will provide a prompt, fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides complainant an opportunity to file a complaint alleging a violation of this Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to

respond to and present evidence related to those allegations prior to a decision on responsibility, and, when credibility is in dispute and relevant to evaluating the allegations, provides a process that enables the decision maker to question parties and witnesses to adequately assess a party's or witness's credibility. In matters when credibility is in dispute and relevant to evaluating the allegations, the process for enabling the decision maker to assess a party's or witness's credibility differs depending on the allegations and identities of the parties, as is further described below.

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

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

A. Trained, Impartial Officials

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

B. Equal Rights of the Complainant and Respondent

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

- Respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures;
- Written explanation of available resources;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt and impartial complaint resolution process conducted by officials who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and defenses and an opportunity to respond;
- Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the complaint resolution process;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sex Discrimination;
- An equal opportunity to access the evidence that is relevant to the allegations of Sex Discrimination and not otherwise impermissible, as set forth in Section XII.F.iii. Access to Relevant Evidence and Investigation Report below;
- The right to notification, in writing, of the resolution, including the outcome of any

- appeal;
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so;
- The right to be free from Retaliation as defined in this Policy;
- For the respondent, the right to not be subject to discipline for Sex Discrimination prior to the conclusion of a formal or informal resolution process as set forth in this Policy.
- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section XI.E. Right to an Advisor below for additional information and requirements regarding the conduct of advisors.
- The parties will have the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting or proceeding. Additional persons will only be permitted to be present if required by law.
- The complaint resolution process will include a live hearing, at which each party may propose questions and follow-up questions the party wants asked of any party or witness. At the live hearing, the decision maker will consider the proposed questions and follow-up questions and will ask any relevant and not otherwise impermissible questions of the parties and witnesses, as set forth in Section XII.F.iv. Live Hearing below.

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

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

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is

not required to be, an attorney. The University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section XI.E. Right to an Advisor below for additional information and requirements regarding the conduct of advisors.

- The parties have the right to timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present.

D. Right to an Advisor

The complainant and the respondent in a complaint resolution process involving allegations of Sexual Harassment including Sexual Assault, Dating Violence, Domestic Violence, and Stalking have the right to be accompanied to meetings by an advisor of their choice, who may be, but is not required to be, an attorney. If a member of the University community is serving as an advisor, the advisor should generally be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process.

Guidelines and requirements for advisors are:

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

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

E. Requests for Reasonable Accommodations

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

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

F. Supportive Measures

After receiving a report of alleged Sex Discrimination, the Title IX Coordinator, in conjunction with the Office of Student Life, will consider whether supportive measures are appropriate to (1) restore or preserve a party's access to the University's education program or activity, including measures designed to protect the safety of the parties or the University's educational environment; or (2) provide support during the University's formal or informal resolution process. Such supportive measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such

measures will not unreasonably burden the complainant or respondent and will not be for punitive or disciplinary reasons.

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

Examples of possible supportive measures may include, without limitation:

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

The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and

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

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

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

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

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

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

Opportunity to Seek Modification of Supportive Measures

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

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

G. Non-Participation and Silence

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

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

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

H. Obligation to Act in Good Faith

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

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

I. Obligation to Be Truthful

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

J. Conflicts of Interest and Bias

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

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

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

University encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

K. Time Frames for Resolution

The University is committed to the prompt and equitable resolution of allegations of Sex Discrimination. The time frames for each phase of the procedure is as follows:

i Formal Grievance Procedure

Specific time frames for each phase of the complaint resolution process are set forth in Section XII. Procedures for Sex Discrimination Complaint Resolution below. Each phase of the process will generally be as follows:

- Review of complaint and notice of allegations to the parties: No more than ten (10) calendar days
- Investigation: No more than 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: No more than twenty-five (25) calendar days
- Appeal: No more than twenty (20) calendar days

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

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

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

resolution procedures.

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

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

L. 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 decision maker concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sex Discrimination.

M. Application of Policy

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

N. Reservation of Flexibility

The procedures set forth in this Policy reflect the University's desire to respond to complaints in good faith and in compliance with legal requirements. The University recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The

University reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

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

XI. Procedures for Sex Discrimination Complaint Resolution

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

A. Initial Meeting Between Complainant and Title IX Coordinator

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

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

- Assess the nature and circumstances of the allegation;
- Address immediate needs of the complainant and the campus, in consultation with appropriate campus officials;
- Notify the complainant of the right to contact law enforcement and seek medical treatment, if applicable;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of available supportive measures with or without filing a complaint;
- Provide the complainant with an explanation of the procedural options, including how to file a complaint (if the complainant has not already done so) and the complaint resolution process, including the informal resolution process and the Formal Grievance Procedure;

- Advise the complainant of the right to have an advisor of choice, as applicable under this Policy;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the University's policy prohibiting Retaliation.

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

B. Complaint and Notice of the Allegations

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

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

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

- Notice of the University's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sex Discrimination, and the date and location of the alleged incident, if known;
- A statement that Retaliation is prohibited;
- A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence;

- A statement that the respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the complaint resolution process;
- A statement that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;
- In matters where each party is permitted to have an advisor as described in Section XI.E. Right to an Advisor above, a statement that parties may have an advisor of choice and that advisor may be, but is not required to be, an attorney;
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including in Section XI.J. Obligation to Be Truthful above.

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

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

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

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

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

C. Investigation of Other University Policy Violations

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

Note that individuals who make a good faith report of Sex Discrimination, and individuals who participate in a Sex Discrimination complaint resolution process, will not be disciplined by the University for certain violations of University policies in which they might have engaged in connection with the reported incident, consistent with Section X.D. Amnesty above.

D. Consolidation of Complaints

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

E. Informal Resolution Process

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

If the complainant, the respondent, and the University all agree to pursue an informal resolution, the Vice President for Student Life/Dean of Students will attempt to facilitate a resolution that is agreeable to all parties. The Vice President for Student Life/Dean of Students will not be an advocate for either the complainant or the respondent in the informal resolution process, but, rather, will aid in the resolution of the complaint in a

non-adversarial manner. Under the informal process, the University will only conduct such fact-gathering as is useful to resolve the complaint and as is necessary to protect the interests of the parties, the University, and the University community.

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

Prior to engaging in an informal resolution process, the University will provide the parties with a written notice disclosing: the allegations; the requirements of the informal resolution process; that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the formal resolution process; that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming a formal resolution process arising from the same allegations; the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and what information the University will maintain and whether and how the University could disclose such information for use in the complaint resolution process if those procedures are initiated or resumed. In addition, the University will obtain the parties' voluntary, written consent to the informal resolution process.

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

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

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

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

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

F. Formal Resolution Process

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

i *Investigation*

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

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

The investigator will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include audio-recorded interviews with the complainant, the respondent, and any witnesses. The complainant and respondent will have an equal opportunity to advise the investigator of any witnesses they believe should be interviewed, other inculpatory and exculpatory evidence they believe should be reviewed by the investigator, and questions they believe the investigator should ask the other party or witnesses, including questions challenging credibility. Any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary circumstances exist as determined by the decision maker, in consultation with the Title IX Coordinator.

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

The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator, in consultation with the Title IX Coordinator, determine(s) otherwise. All evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the decision maker, in consultation with the Title IX Coordinator.

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

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

The University will strive to complete the investigation within (i) fifty (50) calendar days from the date the investigator is appointed or (ii) if, after the date the investigator is

appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, fifty (50) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case.

ii *Access to Relevant Evidence and Investigation Report*

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

The Written Response Statement may be used as an opportunity to clarify information contained in the relevant and not otherwise impermissible evidence and investigation report, to identify evidence previously provided to the investigator that was not included in the relevant and not otherwise impermissible evidence or investigation report which the party believes is relevant, and to respond to evidence submitted by the other party

or witnesses. While the parties in a Formal Grievance Procedure and employees in a case involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

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

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

iii *Live Hearing*

The Title IX Coordinator will typically designate a panel of three individuals to serve as the decision maker. References in this Policy to a decision maker include the plural, as applicable. The University reserves the right to appoint any trained individual who is without conflict or bias as decision maker, including third-party decision makers. If any party has a concern that a decision maker has a conflict of interest or bias, the party should report the concern in writing as indicated in Section XI.K. Conflicts of Interest and Bias above.

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

At the live hearing, each party may communicate questions to his/her advisor that the party wants his/her advisor to ask of any party or witness. Before each question is asked, the decision maker will determine whether each proposed question is relevant and not otherwise impermissible. If the question is relevant and not otherwise impermissible, the advisor may ask the question of the party or witness. The decision maker will explain any decision to exclude a question as not relevant or otherwise impermissible. If the decision maker determines a question is irrelevant, the decision maker may give each party the opportunity to address the relevancy before the decision maker makes a determination. Further, the decision maker will give the party an opportunity to clarify or revise the question. If the party sufficiently clarifies or revises a question so that the question is relevant and not otherwise impermissible the advisor may ask the question.

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

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

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

iv *Determination*

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

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

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

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

If the decision maker determines that the respondent is responsible for a policy violation, the decision maker typically will then determine what sanctions and remedies are warranted. The Title IX Coordinator has discretion to appoint a different sanctioning officer as he or she determines appropriate. The University reserves the right to appoint any trained sanctioning officer who is free from conflict of interest or bias, including third-party sanctioning officers. As part of that determination of sanctions/remedies, the

Title IX Coordinator may, in his or her discretion, provide the decision maker/sanctioning officer with information regarding previous violations of this Policy or other University policies by the respondent, if any. If such information is shared with the decision maker/sanctioning officer, the parties will be notified and provided access to that information.

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

v *Sanctions and Remedies*

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

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

- Required assessment, education, counseling, or training;
- Disciplinary probation;
- Warnings;
- Loss of privileges;
- Fines;
- Restitution;
- Behavioral contracts;

- Community service hours;
- Campus housing suspension, 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;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- Conditions upon presence on campus or at University events;
- No trespass or no-contact directives;
- Removal or non-renewal of scholarships or honors;
- Suspension from the University 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;
- Expulsion from the University;
- Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions;
- Temporary or permanent revocation of degree;
- Revocation of admission to the University;
- Loss of salary or benefit such as sabbatical or research or travel funding;
- Suspension of promotion and salary increases with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at University events;
- 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;
- Transfer or change of job or responsibilities;
- Reassignment or removal from an elected or appointed position;
- Formal censure;
- Demotion; and/or
- Termination of employment.

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving Sex Discrimination, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of University privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of University facilities), educational requirements for organization members, required additional oversight of organization activities,

temporary loss of funding and/or loss of recognition by the University, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

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

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

- A mutual or one-sided no-contact directive;
- Prohibiting an individual involved from being on University property;
- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's on-campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a University residence;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no-contact orders available to a complainant; and/or
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

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

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

vi *Notice of Determination*

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

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

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

vii *Dismissal of Complaint Prior to Adjudication*

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

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

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

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

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

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

viii *Appeal*

The parties may appeal in the following circumstances:

- Either the complainant or the respondent, if the respondent has received notice of the allegations, may appeal the University's decision to dismiss a complaint of Sex Discrimination.
- Either the complainant or the respondent may appeal the decision maker's decision regarding responsibility.

Grounds for appeals are as follows:

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

a) *Submitting an Appeal*

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

the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

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

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

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

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

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

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

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

b) *Consideration of Appeal*

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

The appeal officer has the authority to affirm the findings or remand the findings for reconsideration. If the appeal officer determines there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, the matter will generally be remanded for further investigation and/or deliberations by the decision maker, and/or an additional live hearing, as determined by the appeal officer.

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

consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the previous investigator or whether a new investigator should be appointed.

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

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

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

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

XII. Recordkeeping Related to Sex Discrimination

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

When a complaint is pending, each official having a role in the complaint resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law.

XIII. Training

All University employees will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter. Training regarding the complaint resolution process promotes impartial investigations and adjudications. The University will make the training materials available upon request.

A. All Employee Training

All employees will receive training on (1) the University's obligation to address Sex Discrimination in its education program or activity; (2) the scope of conduct that constitutes Sex Discrimination under Title IX, including the definition of Sexual Harassment; and (3) all applicable notification and information requirements, including reporting obligations and/or confidential employee obligations discussed above in Section X.A.i. Employee Reporting Obligations, Section X.A.iii. Mandatory Reporting Concerning Minors and Vulnerable Adults, and Section VIII.B. Obligations of Confidential Employees.

B. Training for Individuals with Heightened Responsibilities

Investigators, decision makers, persons with authority to modify or terminate supportive measures, and any other person responsible for implementing the grievance procedure, will receive training on the following topics, to the extent each topic is related to the

person's responsibilities: the University's obligations under 34 CFR § 106.44; the University's Formal Grievance Procedure; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; the meaning and application of the term "relevant" in relation to questions and evidence and the types of evidence that are impermissible regardless of relevance; issues related to Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability.

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

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

XIV. Complaints of Related Misconduct

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

When the University receives a complaint of violations of supportive measures, the obligation to act in good faith, the obligation to be truthful, violation of the prohibition on widespread social media or other media disclosures, sanctions, an informal resolution agreement, or a non-disclosure agreement, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator's discretion, options for resolution include, but are not limited to, informal discussions and resolution facilitated by the Title IX Coordinator, investigation and/or determination by the Title IX Coordinator, or assignment of a designated individual to investigate the complaint and/or determine an appropriate response. This process will be separate and distinct from the complaint resolution process outlined above for addressing Sex Discrimination complaints. The

Title IX Coordinator will document the complaint received, the process used, and the outcome. The University will notify the parties of the outcome of the complaint. In instances where the outcome of the process results in a suspension longer than one semester, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy.

XV. Alternative Procedures

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

Dallas Office
Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810
Tel: 214-661-9600
TDD: 800-877-8339
Email: OCR.Dallas@ed.gov

XVI. Resources

Counseling/ Mental Health Assistance: Victims of sexual assault may feel the need for personal counseling. Free counseling services are provided on campus by licensed professional counselors.

[Timely Care](#) delivers a new virtual health and well-being platform for students. The service provides 24/7 access to virtual care at no additional cost.

What services are available?

- TalkNow - 24/7, on-demand emotional support.
- Scheduled Counseling - Select the day, time, and mental health provider of your choice. (12 visits per year)
- Self-Care Content - Yoga and meditation sessions and group conversations with TimelyCare providers on a variety of health and well-being topics.

Harding University officials may assist in arranging off-campus counseling services when preferred. Cost of off-campus counseling services is the responsibility of the student or employee. Mental health issues that require inpatient treatment may be treated by the Unity Health Compass Unit located at 1200 S. Main Street in Searcy (501-278-3100).

Health: Harding University maintains a health care center for all students under the supervision of a registered nurse. Student Health Services provides care for illness, accidents, and emergencies that can be adequately treated by registered nurses. There are no fees for treatments or medications, with the exceptions of allergy shots and some vaccines (influenza, hepatitis A, hepatitis B, tetanus, tuberculosis skin tests). The facility is located at 115 Dr. Jimmy Carr Drive. Call 501-279-4346 (campus extension 4346). Dial 0 to speak to the receptionist.

For emergency care, Unity Health maintains a 24-hour emergency facility located at 3214 E. Race Street in Searcy (501-268-6121).

Victim Advocacy: White County Domestic Violence Prevention, Inc. provides victim advocacy assistance and also operates Hope Cottage battered women's facility. The hotline number is 501-278-4673.

Legal Assistance: Free legal assistance may be obtained from the Center for Arkansas Legal Services located at 1300 W. 6th Street, Little Rock, AR 72201. The phone number is 800-952-9243.

Visa/Immigration Assistance: Visa and immigration assistance, as well as assistance with filing Violence Against Women petitions, is available through Catholic Charities Immigration Services located at 2500 N. Tyler Street, Little Rock, AR 72217. The phone number is 501-664-0340, ext. 314.

Financial Aid: The Harding University Office of Financial Aid can provide victims with financial aid-related services and information, such as how to apply for a leave of absence or about options for addressing concerns about loan repayment terms and conditions.

XVII. State Law Definitions

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

Sexual Assault:

[See Arkansas Statutes Section 5-14-124](#) et seq. for applicable criminal definitions relating to Sexual Assault. Arkansas law prohibits criminal sexual conduct in the first through fifth degrees as set forth in [Arkansas Statutes Section 5-14-124 – 5-14-127](#). Criminal sexual conduct includes non-consensual sexual contact, sexual intercourse or deviate sexual activity as defined in [Arkansas Statutes Section 5-14-126](#).

Dating Violence:

[Arkansas Statutes Section 5-26-302](#) defines a “dating relationship” as a “romantic or intimate social relationship between two individuals”. Several factors are used to determine whether the relationship constitutes a “dating relationship”. Violence in the context of a dating relationship is prohibited as Domestic Battering and Assault under Arkansas Statutes.

Domestic Violence:

See [Arkansas Statutes Section 5-26-302](#) for a definition of Domestic Battering and Assault. Arkansas law prohibits domestic battering in the first through third degrees, and prohibits Assault on a Family or Household Member in the first through third degree, and Aggravated Assault on a Family or Household Member. See [Arkansas Statutes Sections 5-26-303](#) et seq.

Stalking:

See [Arkansas Statutes Section 5-71-229](#) for applicable criminal law definitions relating to stalking. Arkansas law prohibits stalking as defined in [Arkansas Statutes Section 5-71-229](#).