

# **AURORA UNIVERSITY**

## **Policy Statement A-1: Title IX Sexual Harassment Policy**

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## **Title IX Sexual Harassment Policy**

### **I. Policy Statement**

Aurora University (the “University”) is committed to providing a learning, working and living environment that promotes personal integrity, civility and mutual respect. The University does not discriminate, or tolerate discrimination against any member of its community on the basis of race, color, national origin, ancestry, sex/gender, age, religion, disability, pregnancy, veteran status, marital status, sexual orientation, or any other status protected by applicable federal, state or local law in matters of admissions, employment, or in any aspect of the educational programs or activities it offers. A copy of the University Notice of Nondiscrimination is available [here](#).

Pursuant to the U.S. Department of Education’s implementing regulations for Title IX of the Education Amendments of 1972 (“Title IX”) (*see* 34 C.F.R. § 106 *et seq.*), the University has adopted this Policy. Specific conduct prohibited by Title IX is addressed through this Policy. The University has adopted its Policy Prohibiting Discrimination, Sexual Misconduct and Interpersonal Violence to address sex-based discrimination not covered by the University’s Title IX Sexual Harassment Policy, including other forms of discrimination prohibited by Title IX and sexual misconduct and interpersonal violence prohibited by the Illinois Preventing Sexual Violence in Higher Education Act.

For purposes of this Policy, Title IX Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

When reports of Title IX Sexual Harassment are received, the University will provide the parties supportive measures, as appropriate, to restore or preserve equal access to the University’s Education Programs and Activities.

### **II. Scope**

This Policy applies to Title IX Sexual Harassment that occurs within the University’s Education Programs and Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the University community.

This Policy does not apply to Title IX Sexual Harassment that occurs outside the scope of the University’s Education Programs and Activities. Such sexual misconduct may be prohibited by the University’s Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence or other University policies and standards.

Consistent with the U.S. Department of Education’s implementing regulations for Title IX, this Policy does not apply to Title IX Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Title IX Sexual Harassment occurs in the University’s Education

Programs and Activities, such as a study abroad program. Title IX Sexual Harassment that occurs outside the geographic boundaries of the United States may be prohibited by the University's Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence or other University policies and standards.

### III. Definitions

**A. "Title IX Sexual Harassment"** is conduct on the basis of sex that constitutes:

An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual contact ("Quid Pro Quo Sexual Harassment"); or

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the University's Education Programs and Activities.

Title IX Sexual Harassment also constitutes Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

**B. "Sexual Assault"** includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.<sup>1</sup>

1. "Rape" is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sexual organ of the other person. Attempted Rape is included.
2. "Sodomy" is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
3. "Sexual Assault with an Object" is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.

<sup>1</sup> The University's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the University to adopt a definition of "Sexual Assault" that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

4. “Fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
  5. “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- E. “Domestic Violence”** is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person’s acts under domestic or family violence laws.
- F. “Dating Violence”** is violence committed by a person –
1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
    - The length of the relationship;
    - The type of relationship; and
    - The frequency of interaction between the persons involved in the relationship.
- G. “Stalking”** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for their safety or the safety of others; or
  - Suffer substantial emotional distress.
- H. “Consent”** refers to words or actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is Incapacitated is not capable of giving Consent.
- I. “Incapacitation”** Incapacitation is a state where one cannot make a rational, reasonable decision to engage in sexual activity because they lack the ability to understand the fact, nature, or extent of the act (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction), and/or are physically helpless.

- J. “Retaliation”** is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an 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.
- K. “Complainant”** means an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.
- L. “Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.
- M. “Formal Complaint”** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment in accordance with this Policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the University’s education programs and activities. A “document filed by a Complainant” means a document or electronic submission (such as an email or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.
- N. “Supportive Measures”** are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, to the Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve equal access to the University’s Education Programs and Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s education environment, or deter Title IX Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties.
- O. “Education Programs and Activities”** includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University, including, but not limited to, in-person and online

educational instruction, employment, extracurricular activities, athletics, residence life, and dining services.

#### **IV. Understanding Consent**

- Consent is informed, freely and actively given agreement to sexual activity and requires clear communication between all persons involved in a sexual encounter. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually.
- Consent is active, not passive. Consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be mutually understandable.
- Consent cannot be inferred from silence, lack of verbal or physical resistance, or submission resulting from the use or threat of force.
- Consent cannot be inferred from a person's manner of dress.
- Consent to one form of sexual activity does not constitute consent to other forms of sexual activity.
- Previous relationships or consent to past sexual activity does not constitute consent to future sexual activity.
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior includes, but is not limited to:
  - Repeated or continued pressure by the sexual aggressor in an effort to engage in sexual contact with the individual.
  - Making repeated threats of harm if the individual does not want to participate in sexual contact.
  - Making the individual feel as if sexual contact is owed to the sexual aggressor.
  - Using manipulative comments to try to pressure the individual to engage in sexual contact.
  - Providing the individual with alcohol and/or drugs in an effort to decrease their inhibitions and decision-making capacity.
- Consent can be withdrawn at any time.
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:



- The individual is incapacitated due to drug or alcohol consumption, either voluntarily or involuntarily;
- The individual is unconscious, asleep, or otherwise unaware that sexual activity is occurring;
- The individual is under age under state law; or
- The individual cannot provide consent due to a mental disability or impairment.

In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all Parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

The standard measure for consent is whether a reasonable person should have known that consent had not been or could not be given.

## **V. Reporting Title IX Sexual Harassment**

### **A. Reporting Incidents to the University**

The University encourages members of the University Community to report any and all instances of Title IX Sexual Harassment, even if they are unsure whether the conduct rises to the level of a Policy violation. Any person may report Title IX Sexual Harassment to the Title IX Coordinator. Reports may be made by complainants, third parties, witnesses, or bystanders, and may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

The name and contact information for the Title IX Coordinator is:

Allison Brady, Assistant Vice President for Student Life, Dean of Students and Title IX Coordinator  
 Office location: Founders House 101  
 Phone: (630) 844-4578  
 Email: [abrady@aurora.edu](mailto:abrady@aurora.edu)

In addition to reporting to the Title IX Coordinator, any person may report Title IX Sexual Harassment to the following University employees:

#### **Assistant Title IX Coordinators**

Joanne Tolbert-Wells, Associate Vice President of People and Culture  
 Office location: 105C Eckhart Hall  
 Phone: (630) 844-3866  
 Email: [jtoltbert-wells@aurora.edu](mailto:jtoltbert-wells@aurora.edu)

Jim Hamad, Vice President for Athletics

Office location: 247 Alumni Hall  
Phone: (630) 844-4910  
Email: [jhamad@aurora.edu](mailto:jhamad@aurora.edu)

Chris Smith, Associate Dean of Students & Director of Campus Life  
Office location: Founders House  
Phone: (630) 844-6143  
Email: [csmith@aurora.edu](mailto:csmith@aurora.edu)

### **Reporting Officials**

University employee with managerial authority over other employees, including senior staff members, deans, department heads, unit supervisors, and other managers (collectively “Reporting Officials”) who must promptly forward such report of Title IX Sexual Harassment to the Title IX Coordinator.

All other University employees, except those identified in the Confidential Resources section below are encouraged, but are not required to, forward reports of Title IX Sexual Harassment to the Title IX Coordinator.

### **Aurora University Department of Campus Public Safety**

1408 Southlawn Place, Aurora, IL 60506  
(630) 844-5450 (emergency)  
(630) 844-6140 (non-emergency)  
[cpsafety@aurora.edu](mailto:cpsafety@aurora.edu)

### **To File a Report Electronically and/or Anonymously**

Reports can also be submitted via the University Sexual Misconduct webpage at <https://aurora.edu/sexual-misconduct>. A report made through the University’s Sexual Misconduct webpage can be submitted anonymously. Upon filing an electronic report, the electronic reporter (if not anonymous) will receive an electronic response within 12 hours.

Once a report of Title IX Sexual Harassment is made, the Complainant has several options such as, but not limited to:

- Obtaining Supportive Measures from the University, including counseling at no cost
- Contacting parents or a relative
- Seeking legal advice
- Pursuing legal action against the perpetrator
- Filing a Formal Complaint with the University
- Requesting that the University take no further action

Although a Complainant may request that the University take no further action, in some instances it may be appropriate for the Title IX Coordinator to sign a Formal Complaint to initiate a grievance process against a respondent.

**Inquiries about this Policy and Title IX may also be directed to:**

U.S. Department of Education (Chicago Office)  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Phone: (312) 730-1560  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

**B. Reporting Incidents to Law Enforcement**

Individuals also have the option to contact the appropriate law enforcement authorities regarding the possibility of filing a criminal complaint. The University employees and offices identified above, as well as the confidential resources and confidential advisors identified below, are available to assist students and others in making contact with appropriate law enforcement authorities upon request. All Complainants have the option to pursue a criminal complaint with an appropriate law enforcement agency, to pursue a complaint under the University's policies and procedures, or to pursue both processes simultaneously.

The University will investigate and resolve alleged or suspected violations of this Policy where appropriate, whether or not a criminal complaint is pursued by the Complainant. The University reserves the right to proceed with or resolve its own investigation prior to the conclusion of any criminal investigation or criminal proceeding.

The University may, in some circumstances, defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer the University's fact-finding, provide regular updates on the status of the investigation, and notify the parties when the University's fact-finding resumes.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether Title IX Sexual Harassment, for purposes of this Policy, has occurred. In other words, conduct may constitute Title IX Sexual Harassment under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

**For more information regarding the option to pursue a criminal complaint, contact:**

- The City of Aurora Police Department, 1200 East Indian Trail; Aurora, IL, 60505, 911 (emergency); (630) 256-5000 (non-emergency)

- City of Woodstock Police Department, 656 Lake Ave., Woodstock, IL 60098; 911 (emergency), (815) 338-2131 (non-emergency)
- Kane County State’s Attorney Office, 37w777 IL Route 38, Suite 300, St. Charles, IL 60175, (630) 232-3500

In addition to having the option of pursuing a criminal complaint, individuals also have the right to request that law enforcement issue emergency protective restraining orders or to pursue such orders through the court process. Complainants who receive emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the University can work with the individual and the subject of the restraining order to manage compliance with the order on campus.

**For more information about protective or restraining orders, see/contact:**

- The City of Aurora Police Department, 1200 East Indian Trail; Aurora, IL, 60505, 911 (emergency); (630) 256-5000 (non-emergency)
- Kane County State’s Attorney Office, 37w777 IL Route 38, Suite 300, St. Charles, IL 60175, (630) 232-3500

**C. Medical Assistance**

The University also strongly encourages all individuals who feel they have been victims of Sexual Assault, Domestic Violence, or Dating Violence to seek immediate assistance, preferably within the first 12 hours post-incident, from a medical provider for emergency services, including treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services. Medical treatment can also be crucial to preserving evidence in the event of a criminal investigation. Seeking medical attention helps preserve the full range of options, including the options of working through the University’s procedures and/or filing criminal complaints. Medical personnel may be covered by federal and/or state privacy laws, such as the Health Insurance Portability and Accountability Act (“HIPAA”). Under applicable law, medical personnel are required to alert police when it reasonably appears that the individual requesting the treatment has received an injury sustained as a victim of a criminal offense, including sexual violence. However, it is an individual’s choice whether to contact the police.

Our local emergency rooms have trained health care professionals on staff, including Sexual Assault Nurse Examiners, experienced in assessment, evidence collection and treatment of victims of sexual assault. While victims will be referred to our local emergency rooms for medical attention, our Health Services Center on the University campus can provide additional information and support to victims on how to seek further medical attention and what to expect at the visit.

**Medical Services may be obtained at:**

Presence Mercy Medical Center  
 (24/7, ER assistance)  
 1325 N. Highland Ave.

Aurora, IL 60506  
Phone: (630) 859-2222

Rush-Copley Medical Center  
(24/7, ER assistance)  
2000 Ogden Ave.  
Aurora, IL 60504  
Phone: (630) 978-6200

Centegra Hospital  
1 Doty Rd.  
Woodstock, IL 60098  
Phone: (815) 338-2500

For further support, individuals may contact Mutual Ground (630-897-8383), the local sexual assault/domestic violence crisis center in Aurora. Professionals from Mutual Ground provide free, 24-hour crisis intervention which includes support for victims at the hospital emergency room, information about medical exams and evidence collection, as well as individual counseling and support groups.

#### **D. Preserving Evidence**

Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if he or she chooses not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, he or she can bring them unwashed to the hospital or medical facility in a paper bag.

Emergency medical or forensic examinations (i.e., evidence collection) for sexual assault survivors are available free of charge to patients. **Individuals can obtain a free emergency medical or forensic examination at:**

Presence Mercy Medical Center (24/7, ER assistance)  
1325 N. Highland Ave., Aurora, IL 60506  
Phone: (630) 859-2222

Individuals who have experienced Sexual Assault, Domestic Violence, Dating Violence, or Stalking are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents.

## **VI. Resources**

Any individual affected by or accused of Title IX Sexual Harassment will have equal access to support and counseling services offered through the University. The University encourages any individual who has questions or concerns to seek support of University identified resources. The Title IX Coordinator is available to provide information about the University's policies and procedures and to provide assistance.

### On-Campus Resources

Counseling Services

Office location: 1317 Marsellaise Place

Phone: (630) 844-4932

Email: [counselingcenter@aurora.edu](mailto:counselingcenter@aurora.edu)

Appointment Request Form: [aurora.edu/counselingappointment](http://aurora.edu/counselingappointment)

Health Services

Office location: 1317 Marsellaise Place, Aurora, IL 60506

Phone: (630) 844-5434

Email: [shs@aurora.edu](mailto:shs@aurora.edu)

TimelyCare

[timelycare.com/AU](http://timelycare.com/AU)

### Off-Campus Resources

Victim Advocacy/Legal Assistance

Mutual Ground

418 Oak Avenue, Aurora, IL 60506

24-Hour Domestic Violence Hotline: (630) 897-0080

24-Hour Sexual Assault Hotline: (630) 897-8383

Administrative Office: (630) 897-0084

Email: [info@mutualground.org](mailto:info@mutualground.org)

### Visa and Immigration Assistance

Family Focus

550 Second Avenue

Aurora, IL 60506

Phone: (630) 844-2550

World Relief Aurora

73 South LaSalle Street  
Aurora, IL 60505  
Phone: (630) 264-3171

### **A. Confidential Advisors**

Individuals wishing to obtain confidential assistance without making a report to the University may do so by speaking with any of the following Confidential Advisors or resources. These resources are available, whether or not a Complainant chooses to report an incident to the University, to law enforcement, participate in the University's complaint resolution procedures, or in the legal or criminal process with regard to any such report.

These resources are available to both parties. They can help explain the parties' rights and options under this Policy, assist the parties in obtaining support and navigating the University's reporting, investigation, and resolution process, and provide ongoing support as needed.

Disclosures to these trained confidential advisors or resources **will not** trigger the University's investigation into an incident.

The University has entered into an agreement with Mutual Ground to provide Confidential Advisor services to students seeking to make a confidential report or otherwise access confidential assistance. Representatives of Mutual Ground are trained and available to discuss incidents of Title IX Sexual Harassment in confidence. In addition to providing confidential counseling, confidential advisors also provide emergency and ongoing support to individuals who have been affected by Title IX Sexual Harassment, including:

- The provision of information regarding the individual's reporting options and possible outcomes, including without limitation, reporting to the University pursuant to this Policy and notifying local law enforcement;
- The provision of resources and services, including, but not limited to, services available on campus and through community-based resources, such as, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- The provision of information regarding orders of protection, no contact orders or similar lawful orders issued by the University or a criminal or civil court;
- An explanation of the individual's right to have privileged, confidential communications with the Confidential Advisor consistent with state and federal law;
- Assistance in contacting campus officials, community-based sexual assault crisis centers and/or local law enforcement upon request; and/or
- Assistance with securing interim protective measures and accommodations upon request.

Contact information for confidential advisors is as follows:

Mutual Ground  
418 Oak Avenue

Aurora, IL 60506

[mutualground.org](http://mutualground.org)

Sexual Assault 24-Hour Hotline: (630) 897-8383

### **B. On-Campus Confidential Resources**

In addition, the following on-campus confidential resources are also available to students who have been affected by Title IX Sexual Harassment.

- Aurora University Counseling Services (1317 Marseillaise Place, (630) 844-5416)
- Health Services (1317 Marseillaise Place, (630) 844-5434)
- University Chaplain (430 South Evanslawn Avenue, (630) 844-6866)
- TimelyCare ([timelycare.com/AU](http://timelycare.com/AU))

### **C. Off-Campus Confidential Resources**

In addition to the Confidential Advisors and on-campus confidential resources noted above, the following off-campus agencies also employ individuals who are available to discuss incidents of Title IX Sexual Harassment in confidence. Please note that limitations of confidentiality may exist for individuals under the age of 18.

- **National Sexual Assault Telephone Hotline:** (800) 656-HOPE (4673)
- **State of Illinois Domestic Violence Hotline:** (877) 863-6338
- **Local 24-hour Crisis Intervention Services (Counseling/Advocacy)**

#### Aurora Campus

Mutual Ground

418 Oak Ave

Aurora, IL 60506

Sexual Assault Hotline (24/7): (630) 897-8383

General phone number: (630) 897-0080



Woodstock Campus  
McHenry County Crisis Program  
PO Box 1990  
Woodstock, IL 60098  
Crisis Hotline (24/7): (800) 892-8900

## **VII. Contacting the Complainant**

If a Complainant's identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures; to discuss and consider the Complainant's wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

If the Complainant's identity is not apparent from the report, the Title IX Coordinator may take preliminary investigative steps to determine the identity of the Complainant.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of this Policy, and/or could not constitute Title IX Sexual Harassment, even if investigated, the Title IX Coordinator will notify the Complainant if doing so is deemed appropriate. The Title IX Coordinator may refer the report to other University offices, as appropriate, including for potential assessment under the University's Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence.

## **VIII. Supportive Measures**

The University will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures, and the University will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The University will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The Title IX Coordinator will provide the Complainant and Respondent with a written document (separate from this Policy) listing the available rights, options, and resources, including Supportive Measures, and describing the University's Title IX Sexual Harassment Investigation and Resolution Procedures, in plain, concise language.

The University will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures in question.

## **IX. Emergency Removal**

At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the University's Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an emergency removal, the Title IX Coordinator will offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the emergency removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the University may place the Respondent on administrative leave at any time after receiving a report of Title IX Sexual Harassment, including during the pendency of the investigation and hearing process.

For all other Respondents, including independent contractors and guests, the University retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

## **X. Formal Complaint**

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Title IX Sexual Harassment in accordance with the provisions "Investigation" and "Hearing Process." Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the University's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified in "Reporting Title IX Sexual Harassment." Although other individuals may report Title IX Sexual Harassment, no person may submit a Formal Complaint on the Complainant's behalf.

Where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. Factors the Title IX Coordinator may consider include (but are not limited to): (a) was a weapon involved in the incident; (b) were multiple assailants involved in the incident; (c) is the accused a repeat offender; and (d) does the incident create a risk of occurring again.

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the University will commence an investigation as specified in "Investigation" and proceed to adjudicate the matter as

specified in “Hearing Process.” In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party’s level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and hearing processes.

If neither the Complainant or the Title IX Coordinator files a Formal Complaint, the investigation and hearing procedures of this Policy will not be applied, but the Title IX Coordinator may refer the report to other University offices, as appropriate, including for potential assessment under the University’s Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence.

## **XI. Consolidation of Formal Complaints**

The University may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. Where the investigation and hearing process involve more than one Complainant or more than one Respondent, references in this Policy to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

## **XII. Dismissal**

In a case where the Complainant files a Formal Complaint, the University must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the Policy specified in “Scope” (i.e., because the alleged conduct did not occur in the University’s Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in “Appeal.” The Title IX Coordinator may refer the subject matter of the Formal Complaint to other University offices, as appropriate, including for potential assessment under the University’s Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence.

The University may dismiss a Formal Complaint if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);

- The Respondent is no longer enrolled or employed by the University as the case may be; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed, the Title IX Coordinator will provide written notice to the parties and advise them of their right to appeal as specified in “Appeal.” The Title IX Coordinator may refer the subject matter of the Formal Complaint to other University offices, as appropriate, including for potential assessment under the University’s Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence.

### **XIII. Notice of Allegations**

After receiving a Formal Complaint and determining it is appropriate to proceed with an investigation, the Title IX Coordinator will promptly transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this Policy or a hyperlink to this Policy;
- Sufficient details known at the time to prepare a response before an initial interview with the investigator, including the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notification to the Complainant and Respondent of their right to be accompanied by an advisor of their choice, as specified in “Advisor of Choice.”
- Notifying the Complainant and Respondent of their right to inspect and review evidence as specified in “Access to Evidence.”
- Notifying the Complainant and Respondent of the University’s prohibitions on retaliation and false statements specified in “Bad Faith Complaints and False Information” and “Retaliation.”
- Information about resources that are available on campus and in the community.
- Should the University elect, at any point, to investigate additional allegations about the Complainant or Respondent that are not included in the Notice of Allegations, the University will provide notice of the additional allegations to all known parties.

### **XIV. Investigation**

#### **A. Commencement and Timing**

After the written notice of allegations is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged

misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the hearing lies with the University and not with the parties. The investigation will culminate in a written investigation report, specified in “Investigation Report,” that will be submitted to the hearing officer during the hearing process. Although the length of each investigation may vary depending on the circumstances involved in the manner, the University strives to complete each investigation as soon as practicable.

### **B. Equal Opportunity**

During the investigation, the investigator will provide an equal opportunity for the parties to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be cumulative, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant, as specified in “Sexual History.” The investigator will use this discretion in a manner that provides an equal opportunity to each party. The investigator will also determine whether character witnesses will be interviewed based on the circumstances of the case, and, when conducted, the investigator will provide an equal opportunity to each party to present such witnesses. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party’s opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the hearing absent a showing of mistake, inadvertence, surprise, or excusable neglect.

### **C. Documentation of Investigation**

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator’s notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator’s sole discretion, although whatever method is chosen shall be used consistently throughout an investigation.

### **D. Access to the Evidence**

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the University may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have ten (10) calendar days in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

### **E. Investigation Report and Response to Investigation Report**

After the period for the parties to provide any written response as specified in “Access to the Evidence” has expired, the investigator will complete a written investigation report that fairly summarizes the relevant evidence. The investigative report will also include lists of material facts on which the parties agree and do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form. Thereafter, the parties will have ten (10) calendar days in which to submit a written response to the report to the appointed Hearing Officer.

A party’s written response to the investigation report shall include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history as specified in “Sexual History,” or for any other reason;
- A list of any witnesses that the party contends should be requested to attend the hearing;
- Any objection that the party has to the University’s Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing; and
- If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning as specified in “Hearing.”

## **XV. Hearing Process**

After the investigator has sent the investigation report to the parties, the Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint at the conclusion of the hearing process. The Title IX Coordinator will provide the hearing officer a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in “Access to the Evidence.” The hearing officer will not be the Title IX coordinator, the investigator assigned to investigate the formal complaint, or the appeals officer.

### **A. Hearing Notice**

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; confirming the deadline for the parties to submit a written response to the investigation report; setting a date for the pre-hearing conference; and providing a copy of the University's Hearing Procedures.

### **B. Pre-Hearing Conference**

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. By default, the pre-hearing conference will be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; review the witnesses requested by each party; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing, including an opportunity for each party to request to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect.

### **C. Issuance of Notices of Attendance**

Notices of attendance will be transmitted to parties and witnesses. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict. If a University student or employee requires assistance arranging to attend the hearing, the Title IX Coordinator will contact managers, faculty members, coaches, or other supervisors as appropriate.

### **D. Hearing**

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the University's Hearing Procedures. The hearing may not be held prior to the stated deadline provided to the parties for submitting written response to the investigation report. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

By default, the hearing will be conducted live, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology. If an in-person hearing is conducted, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. Neither party will be compelled to testify in the physical presence of the other party.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party’s advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility; and
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary University personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete. The parties will not be permitted to question the other party or any witness directly.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them pursuant to “Access to the Evidence.”

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this Section (“Hearing”), the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including but not limited to the order of the hearing and questions of admissibility.

The hearing officer will address and resolve any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

### **E. Deliberation and Determination**

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person’s status as a Complainant, Respondent, or witness. The hearing officer will reach a determination based on the preponderance of the evidence standard (i.e., “more likely than not”) regarding whether the facts constitute one or more violations of the Policy as alleged in the Formal Complaint.



## **F. Discipline and Remedies**

In the event the hearing officer determines that the Respondent is responsible for violating this Policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures will be provided to the parties and remedies will be provided to the Complainant.

## **G. Written Decision**

After reaching a determination and consulting with the appropriate University official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the University upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Findings of fact supporting the determination;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent;
- Conclusions regarding the application of the University's discipline policies to the facts;
- Whether the Complainant will receive any ongoing support measures or other remedies designed to restore or preserve equal access to the University's education program or activity; and
- A description of the University's process and grounds for appeal.

The hearing officer will provide the written determination simultaneously to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal as specified in "Appeal."

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the University strives to issue the hearing officer's written determination within fourteen (14) calendar days after the hearing is complete.

## **XVI. Appeal**

Either party may appeal the determination of a hearing or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;

- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, or hearing officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.
- The sanction is disproportionate with the violation.

A party must file an appeal within seven (7) calendar days of the date they receive notice of dismissal or determination. The appeal must be submitted in writing to the Senior Vice President for Student Success, who serves as the appeal officer. The Senior Vice President for Student Success may delegate the review of an appeal to a designee. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the four grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) calendar days. The appeal officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and hearing necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and transmit a written decision to the parties. Although the length of each appeal will vary depending on the totality of the circumstances, the University strives to issue the appeal officer's written decision simultaneously to the parties within (21) calendar days of an appeal being filed.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

The appeal officer will not be the Title IX coordinator, the investigator assigned to investigate the formal complaint, or the hearing officer.

## **XVII. Potential Outcomes Following a Finding of a Policy Violation**

### **A. Sanctions**

When a final determination is made that an individual has violated this Policy, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. Sanctions and corrective actions can include, but are not limited to:

- Expulsion/Termination of Employment
- Suspension
- Loss of On-Campus Housing
- Loss of Extracurricular Privileges
- Residence Hall Reassignment
- No Contact Order
- University Referral
- Parental Notification (Refer to [the A-Book for additional information](#))
- Restitution Fines
- Restitution Service
- Educational Activity
- Restriction of Privileges or No-Trespass Directive
- Suspension of Group Recognition
- Revocation of Group Recognition
- Registration Hold
- Disciplinary Probation
- Disciplinary Admonition

## **B. Remedies**

After a final decision is made that an individual has violated this Policy, the University may also offer additional support measures or remedies to the Complainant and/or take other action to prevent the recurrence or otherwise address any Title IX Sexual Harassment. Remedies that may be offered or provided to a Complainant may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

## **XVIII. Advisor of Choice**

From the point a Formal Complaint is made, and until an investigation, hearing, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, hearing, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in “Hearing,” the advisor is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the University about the matter without the party being included in the communication. In the event a party’s advisor of choice engages in material violation of the parameters specified in this Section and “Hearing,” the University may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in “Hearing,” the University will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The University will have sole discretion to select

the advisor it provides. The advisor the University provides may be, but is not required to be, an attorney.

The University is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in “Hearing.”

#### **XIX. Treatment Records and Other Privileged Information**

During the investigation and hearing processes, the investigator and hearing officer, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally recognized privilege, such as the attorney client privilege unless the University has obtained the party’s voluntary, written consent to do so for the purposes of the investigation and hearing process.

Notwithstanding the foregoing, the investigator and/or hearing officer may not require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

#### **XX. Sexual History**

During the investigation and hearing processes, questioning regarding a Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

#### **XXI. Informal Resolution**

At any time after the parties are provided written notice of the Formal Complaint as specified in “Notice of Formal Complaint” and before the completion of any appeal specified in “Appeal,” the parties may voluntarily consent, with the Title IX Coordinator’s approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another University official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and hearing of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and hearing processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) calendar days. If an informal resolution process does not result in a resolution within twenty-one (21) calendar days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and hearing procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or hearing process that were suspended due to the informal resolution.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Title IX Sexual Harassment against a student.

## **XXII. Presumption of Non-Responsibility**

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

### **XXIII. Amnesty/Good Samaritan Policy**

The welfare of students and employees in our community is of paramount importance, and the University encourages students and employees to offer help and assistance to others in need. The University recognizes that individuals sometimes might be hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to make a report or to help take a victim of Sexual Assault, Domestic Violence, Dating Violence, or Stalking to the Office of Campus Public Safety because of the potential consequences for their own conduct). To encourage reporting, the University offers amnesty or limited immunity for students or employees who help others in need. A student or employee who makes a good faith report of Title IX Sexual Harassment that was directed at them or another person will not be subject to disciplinary action by the University for any violation of Aurora University's Code of Conduct, such as underage drinking, that is related to and revealed in the course of the Title IX Sexual Harassment report or investigation, unless the University determines that the violation was serious and/or places the health or safety of any other person at risk. The University may, however, pursue educational remedies regarding alcohol or other drugs with regard to an individual who makes such a good faith report.

### **XXIV. Conflicts of Interest, Bias, and Procedural Complaints**

The Title IX Coordinator, investigator, hearing officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. Any party who believes one or more of these University officials has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. The parties will be notified of the identities of the decision maker and appeal reviewer for their proceeding before those individual(s) initiate contact with either party. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in "Appeal" or otherwise.

### **XXV. Objections Generally**

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the University may evaluate the matter and address it, if appropriate.

### **XXVI. Academic Freedom**

The University will construe and apply this Policy consistent with the principles of academic freedom, free speech, and the University's mission and core values.

## **XXVII. Recordings**

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the University and is considered property of the University, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

## **XXVIII. Vendors, Contractors and Third Parties**

The University does business with various vendors, contractors, and other third-parties who are not students or employees of the University. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this Policy, the University retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the University retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this Policy.

## **XXIX. Bad Faith Complaints and False Information**

It is a violation of this Policy for any person to submit a report or Formal Complaint that the person knows, at the time the report or Formal Complaint is submitted, to be false or frivolous. It is also a violation of this Policy for any person to knowingly make a materially false statement during the course of an investigation, hearing, or appeal under this Policy. Violations of this Section are not subject to the investigation and hearing processes in this Policy; instead, they will be addressed under the Student Code of Conduct in the case of students and other University policies and standards, such as the Employee Handbook and Faculty Handbook, as applicable, for other persons.

## **XXX. Retaliation**

It is a violation of this Policy to engage in Retaliation. The University retains discretion to consolidate investigations of alleged Retaliation associated with a Formal Complaint of Title IX Sexual Harassment with disciplinary proceedings outlined in the Student Handbook, Employee Handbook, Faculty Handbook, or other University policies or rules.

Individuals found to have engaged in Retaliation under this Policy, may be subject to disciplinary action that may include, but is not limited to, the sanctions set forth in "Sanctions," up to and including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

## **XXXI. Confidentiality**

The University will keep confidential the identity of any individual who has made a report or Formal Complaint of Title IX Sexual Harassment or Retaliation, including any Complainant, the identity of any individual who has been reported to be a perpetrator of Title IX Sexual Harassment or

Retaliation, including any Respondent, and the identity of any witness. The University will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, hearing records, and appeal records. Notwithstanding the foregoing, the University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations including the conduct of any investigation, hearing, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the University's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and hearing materials in the circumstances specified in this Policy.

While the University will maintain confidentiality as specified in this Section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Note that certain types of Title IX Sexual Harassment are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

#### **XXXII. Other Alleged Violations**

Alleged conduct not covered by this Policy will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other University policies and standards for students and employees.

#### **XXXIII. Signatures and Form of Consent**

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this Policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

#### **XXXIV. Deadlines, Time, Notices, and Method of Transmittal**

Where this Policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;



- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the University where, in the University's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the University's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. Whether to grant such a requested extension will be in the sole discretion of the University.

The parties will be provided written notice of the modification of any deadline or time period specified in this Policy, along with the reasons for the modification.

Unless otherwise specified in this Policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using University email addresses.

A party is deemed to have received notice upon transmittal of an email to their University email address.

In the event notice is provided by mail, a party will be deemed to have received notice five (5) calendar days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in this Policy, the sufficient time to be provided will be determined in the sole discretion of the University, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant University officials; approaching holidays or closures; and the number and length of extensions already granted.

#### **XXXV. Other Forms of Discrimination**

This Policy applies only to Title IX Sexual Harassment as defined herein. Complaints of other forms of sex discrimination or sexual misconduct are governed by the University's Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence.

### **XXXVI. Outside Appointments, Dual Appointments, Delegations, and Coordination**

The University retains discretion to retain and appoint suitably qualified persons who are not University employees to fulfill any function of the University under this Policy, including, but not limited to, the investigator, hearing officer, informal resolution officer, and/or appeals officer.

The University also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given University official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, informal resolution officer, and appeals officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

When a non-student employee is the respondent, the Title IX Coordinator will coordinate throughout the grievance process with the Director of Human Resources as appropriate.

### **XXXVII. Training and Education**

The University will ensure that University officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, informal resolution facilitators, University provided advisors, and appeals officers, receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii), the Illinois Preventing Sexual Violence in Higher Education Act, and any other applicable federal or state law.

The University will also provide education to students and employees on issues relating to Title IX Sexual Harassment and the University's policies and procedures that complies with the Illinois Preventing Sexual Violence in Higher Education Act and any other applicable federal or state law.

### **XXXVIII. Recordkeeping**

The University will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in the University's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

### **XXXIX. Disability Accommodations**

Nothing in this policy alters any obligations that the University may have under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Complainants and respondents may request reasonable accommodations for disclosed disabilities to the Title IX coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the grievance process. The Title IX coordinator may not affirmatively provide any disability accommodations that have not been specifically requested by

a complainant or respondent, even where the complainant or respondent may be receiving accommodations in other education programs and activities.

**XL. Discretion in Application**

The provisions of this Policy and the Hearing Procedures referenced in a “Hearing” are not contractual in nature and may be modified by the University. Revisions to this Policy will be posted on the University’s website.

*Adopted August 14, 2020.*

*Revised January 24, 2025.*