



## Grand Canyon University Policies & Standards

Policy Name:	Title IX and Non-Discrimination Policy	Pages: 32
Department:	Academic Affairs	Policy Number: 001
Subsection:	Institutional Access and Compliance Office	Effective Date: October 22, 2020 Revision Date: October 7, 2021

### **Notice of Non-Discrimination**

Grand Canyon University, while reserving its lawful rights where appropriate to take actions designed to ensure and promote the Christian principles that sustain its mission and heritage, prohibits unlawful discrimination, including any form of harassment and/or retaliation, on the basis of age, disability, national origin, race, color, religion, sex, pregnancy, veteran status, or any other classification protected by applicable law, in its employment, admissions policies, educational programs, or activities. It is the purpose of the University to pursue the very highest and academic standards within a context that celebrates and extends the spiritual and ethical ideals of the Christian faith. This policy also complies with the Title IX requirements related to non-discrimination.

### **Definitions**

- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Day* means a business day when the University is in normal operation.
- *Education program or activity* means locations, events, or circumstances where Grand Canyon University exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- *Formal Grievance Process* means either the Title IX Hearing Process or the Discriminatory Harassment Administrative Resolution Process.
- *Hearing Board/Decision-Maker(s)* refers to those who have decision-making and sanctioning authority within the University's Formal Grievance process.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.



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- *Title IX Coordinator* is the official designated by Grand Canyon University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Pool* refers to the Title IX Coordinator, any Deputy or Assistant Deputy Coordinators, investigators, hearing board chairs, and any member of the Hearing Board Pool.

### **Applicable Scope**

Grand Canyon University adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. This policy covers nondiscrimination in both employment and access to educational opportunities. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass not accommodating pregnancy and pregnancy-related conditions, sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence.

Therefore, any member of the University community whose acts deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the University Title IX and Non-Discrimination Policy. When brought to the attention of the University, any such discrimination will be promptly and fairly addressed and remedied according to the appropriate grievance process described below.

The Title IX Hearing Process procedures apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members. Complaints of other protected class harassment or discrimination are resolved through the Discriminatory Harassment Administrative Resolution Process. The Discriminatory Harassment Administrative Resolution Process can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within the Title IX Hearing Process, as determined by the Title IX Coordinator.

### **Title IX Coordinator**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

#### **Title IX and 504 Coordinator**

Shanna Milonas, MBA

Assistant Vice President of Academic Compliance

3300 W. Camelback Rd. Phoenix, AZ 85017

(602) 639-5900

Email: [TitleIX@gcu.edu](mailto:TitleIX@gcu.edu)

Web: [www.gcu.edu/titleix](http://www.gcu.edu/titleix)



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The Title IX and 504 Coordinator oversees implementation of the University's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The Title IX Coordinator manages the Title IX Pool and acts with independence and authority free from bias and conflicts of interest. The members of the Title IX Pool are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. Concerns of bias or a potential conflict of interest by any other Title IX Pool member should be raised with the Title IX Coordinator.

### **Deputy Title IX Coordinator**

Kelsey Nelson, MBA  
3300 W. Camelback Road  
Phoenix, AZ 85017  
602-639-5900  
TitleIX@gcu.edu

The Deputy Title IX Coordinator reports to the Title IX Coordinator to assist with day-to-day leadership, coordination and oversight of the University Title IX program and assists with assuring institutional compliance with Title IX. The Deputy Title IX Coordinator assists the Title IX Coordinator by playing a lead role in monitoring and implementing Title IX compliance measures in accordance with applicable laws, regulations, and University policies.

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

The University has also designated Assistant Deputy Title IX Coordinators who may assist the Title IX/Deputy Coordinator with implementing and monitoring appropriate policies, procedures, training programs, best practices, and other items related to compliance with Title IX. Assistant Deputy Title IX Coordinators ensure potential Title IX issues are immediately reported to the Title IX/Deputy Title IX Coordinator.

### **For Students:**

Tim Griffin, Ed.D  
Dean of Students  
3300 W. Camelback Road  
Phoenix, AZ 85017  
602-639-6647  
Tim.Griffin@gcu.edu



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### **For Athletics:**

Jamie Boggs  
Deputy Director of Athletics  
Senior Women's Administrator  
3300 W. Camelback Road  
Phoenix, AZ 85017  
602-639-6611  
Jamie.Boggs@gcu.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: OCR@ed.gov  
Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

### **Forms of Prohibited Discrimination and Harassment**

The sections below describe specific forms harassment that are prohibited under this policy. All offense definitions encompass actual and/or attempted offenses.

#### **Disability Discrimination and Accommodation**

GCU fully complies with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities. Shanna Milonas has been designated as the 504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Any participants, beneficiaries, applicants, or employees, including students, staff, faculty, and visitors who believes they have been subjected to discrimination on the basis of disability (or is unsatisfied with accommodations provided by the University) may file a grievance. The University has mechanisms in place to resolve concerns about disability discrimination, denial of access to services, accommodations required by law, or an auxiliary aid they believe they should have received ("disability-related issues"), such as:



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- Disagreements regarding a requested service, accommodation, modification of a University practice or requirement, or denial of a request
- Inaccessibility of a program or activity
- Violation of privacy in the context of a disability

GCU encourages students and campus visitors with concerns about a disability-related issue to first discuss the matter with the Student Disability Services (SDS) Office, who will attempt to facilitate a resolution. The SDS Office can be reached at [disabilityoffice@gcu.edu](mailto:disabilityoffice@gcu.edu) or 602-639-6342. In order to receive accommodations, students must complete the Steps to Accommodations, as outlined in the University Policy Handbook.

Employees and applicants for employment should first contact the HR Service Center regarding disability-related issues at [hr@gcu.edu](mailto:hr@gcu.edu) or 602-639-6549. In order to receive accommodations, an employee must complete the process outlined in the Employee Handbook.

Grievances related to disability status and/or accommodations will be addressed using the Informal Resolution Process or the Discriminatory Harassment Administrative Resolution Process.

### **Discriminatory Harassment**

Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law. When discriminatory harassment rises to the level of creating a hostile environment, complaints will be addressed using the Informal Resolution Process or the Discriminatory Harassment Administrative Resolution Process.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive. If harassment creates a hostile environment, GCU will take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

Discriminatory harassment, based on a protected class, creates a hostile environment when the behavior is sufficiently serious to deny or limit one's ability to participate in or benefit from the recipient's education programs and activities or interferes with an employee's ability to perform their job. Racial and national origin is a specific form of discriminatory harassment which can take many forms, including slurs, taunts, stereotypes, or name-calling, as well as racially-motivated physical threats, attacks, or other hateful conduct.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a



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protected status, by referring the complaint to an alternatively appropriate process.

### Sexual Harassment

Sexual Harassment is a specific form of discriminatory harassment and an unlawful discriminatory practice. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo:  
An employee of the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; and/or
- 2) Sexual Harassment:  
Unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the University's education program or activity. Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances.
- 3) Sexual assault, defined as:
  - a) Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
  - b) Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - c) Forcible Sodomy: Oral or anal sexual intercourse with another person that is forcibly committed, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - d) Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e) Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that



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person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- f) Sex Offenses, Non-forcible:
  - i) Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Arizona law.
  - ii) Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of Arizona.
  
- 4) Dating Violence, defined as: Violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - a. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

- 5) Domestic Violence, defined as: Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Arizona, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of Arizona.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- 6) Stalking, defined as: Engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person’s safety, or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, 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. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or

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anguish that may but does not necessarily require medical or other professional treatment or counseling.

### Consensual Relationships

Consensual sexual conduct between GCU employees and students or prospective students is strictly prohibited due to the unequal power inherent in their interactions. Certain exceptions to this prohibition may apply to unique situations, including employees and students who are spouses; employees and students who may have already been involved in a sexual relationship prior to the time they were hired or became a student.

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

### Force, Coercion, Consent, and Incapacitation

As used in the offenses outlined in this policy, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

- Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent:** Knowing, voluntary, clear permission, either by affirmative words or actions, to engage in sexual activity.

- Silence does not necessarily constitute consent.
- Valid consent requires clear words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied.
- Clear communication from the outset is strongly encouraged. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter.
- Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.
- Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease.



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- Consent to some sexual contact (such as kissing or fondling) cannot imply consent for other sexual activity (such as intercourse). A current or previous intimate relationship does not sufficiently constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

**Incapacitation:** A state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

- A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs.
- This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

The Respondent is in violation of this policy if they knew, or should have known, the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment. The Respondent’s use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.

### Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which fall within the coverage of Title IX, the University additionally prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the Complainant’s actual or perceived membership in a protected class. Conduct that does not otherwise constitute Title IX sexual harassment under this policy will be addressed using the Informal Resolution Process or the Discriminatory Harassment Administrative Resolution Process.

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism
  - Invasion of sexual privacy.
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other



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sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent, including the making or posting of revenge pornography

- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University's community, when related to the admission, initiation, joining, or any other group-affiliation activity;
- Bullying, defined as: Repeated and/or severe, aggressive behavior, likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment.

Violation of any other University policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

### **Mandated Reporting**

Except for those who are designated as Confidential Resources, all employees, including GCU Partner Employees, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment. Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not



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reported to them by a Complainant or third-party. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter will result in immediate referral to the Title IX Coordinator, who will take action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of this policy and can be subject to disciplinary.

### **Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Grand Canyon University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **Confidential Resources**

Confidentiality refers to confidential employees in the context of laws that protect certain relationships, including medical and clinical care providers, mental health providers, and counselors (and those who provide administrative services related to the provision of those services). If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff

### **Privacy**

Every effort is made to preserve the privacy of reports. The University will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted or required by applicable laws. For the purposes of FERPA, the University reserves the right to determine which University officials have a legitimate educational interest about incidents that fall within this policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose.

### **Jurisdiction**

All notice/complaints are evaluated to determine whether the conduct occurred in the context of GCU's employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. Jurisdiction applies to all University educational programs and activities, to conduct that takes place on campus or on property owned or controlled by the University, and at University-sponsored events. Jurisdiction may also be taken when the effects of off-campus



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misconduct effectively deprive someone of access to the University's educational program or activities. Off-campus and/or online conduct will be evaluated by the Title IX Coordinator to determine whether the conduct affects a substantial University interest.

The Respondent must be a member of the University community for its policies to apply. When the Respondent is not a member of the University's community, supportive measures, remedies, and resources, including barring the Respondent from University property and/or events, may be accessible to the Complainant by contacting the Title IX Coordinator.

This policy includes online and cyber manifestations of any of the prohibited behaviors, when those behaviors occur in, or have an effect on, the University's education program and activities, or use University networks, technology, or equipment. While the University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to University, it may engage in a variety of means to address and mitigate the effects, including referral to an alternatively appropriate process when the behavior may have an effect on the University's education program and activities.

### **Promptness**

All allegations are acted upon promptly upon receipt of notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. Exceptions and extenuating circumstances can cause a resolution to take longer, but the University will avoid all undue delays within its control. Any time the general timeframes for resolution will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **Supportive Measures**

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. Supportive measures are non-disciplinary individualized services offered as appropriate and reasonably available, to the parties to restore or preserve access to the University's education program or activity. This includes measures designed to protect the safety of all parties or the University's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Complainant will be made aware of the ability to file a formal complaint with the University either at that time or in the future. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented. The University maintains the privacy of the supportive measures, to the extent practicable. Supportive measures will be applied in a manner that ensures as minimal an academic impact on the parties as possible and in a way that does not unreasonably burden either party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Education to the community or community subgroup(s)



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- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to the University Code of Conduct process for students, or the Corrective Action Process for employees.

### **Disabilities Accommodations in the Resolution Process**

Grand Canyon University will provide reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process. Accommodations can be requested by students contacting Student Disability Services Office, or employees contacting Human Resources, who will review the request with the Title IX Coordinator to determine which accommodations are appropriate and necessary for full participation in the process.

### **Emergency Removal**

The University can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student, individual, or the community justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Threat Assessment Team.

When an emergency removal is imposed, the Respondent will be given notice of the action and the opportunity to be heard by meeting with the Title IX Coordinator and Threat Assessment Team prior to the removal being imposed, or as soon thereafter as reasonably possible, to demonstrate why the removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is intended to determine whether the emergency removal is appropriate. The meeting must be requested within three days of notice or objections to the emergency removal will be deemed waived. A Respondent may be accompanied by an Advisor of their choice for the meeting. A Complainant will be permitted to submit a written statement outlining any concerns with the Respondent's request to amend or overturn the emergency removal.

The Title IX Coordinator and Threat Assessment Team have sole discretion to implement or overturn an emergency removal and determine the conditions and duration. Violation of an emergency removal is



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grounds for discipline, up to and including expulsion or termination. The least restrictive emergency actions possible, in light of the circumstances and safety concerns, will be implemented. These actions include, but are not limited to: removing a student from campus housing, placing an employee on administrative leave, restricting access to or use of facilities, permitting alternative coursework options, allowing a student to withdraw or take grades of incomplete, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

There is no appeal process for emergency removal decisions.

### **Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, the affected role will be reassigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Dr. Jennifer Lech, Executive Vice President of Academic Affairs.

Grand Canyon University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

### **Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited or impossible. Acting on notice/complaints significantly impacted by the passage of time is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

### **Amnesty for Involved Parties and Witnesses**

The University strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students. Therefore, parties or witnesses who are students, and who provide information about sex-based discrimination, sexual harassment, sexual misconduct, dating violence, domestic violence, or stalking involving students will not be disciplined by the University for any violation of the University's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

### **False Allegations and Evidence**



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Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under the University's Code of Conduct policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation.

### **Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. Alleged retaliation should be reported immediately to the Title IX Coordinator/504 Coordinator for prompt investigation. Grand Canyon University will take appropriate steps to protect individuals concerned they may be subjected to retaliation.

No member of the University community may take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

### **Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of discrimination, harassment, and/or retaliation may be made by filing a complaint with, or giving verbal notice to, the Title IX Coordinator. A report may be made at any time (including during non-business hours) via telephone, email, or mail. Reports may also be made to any mandatory reporter, which will ultimately be referred to the Title IX Coordinator for further processing. Upon receipt of a complaint or notice of an alleged policy violation, the Title IX Coordinator initiates a prompt initial assessment, resulting in at least one of the following responses:

1. Offering supportive measures because the Complainant does not want to proceed formally; and/or
2. An informal resolution; and/or
3. A Formal Grievance Process including an investigation resulting in a hearing or administrative resolution (requires a formal complaint to be filed with the Title IX Coordinator).

A Formal Complaint refers to a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University investigate the allegation(s).



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The investigation and grievance process will determine whether the Policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

### **When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment that demonstrates a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively. When the University proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the Title IX Coordinator will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint later.

### **Initial Assessment**

Following intake, receipt of notice, or a complaint of an alleged violation of the Title IX and Non-Discrimination Policy, the Title IX Coordinator engages in an initial assessment, which is typically completed in one to five business days. The steps in an initial assessment can include, but are not limited to:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. A



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formal grievance process is not initiated, though the Complainant can elect to initiate it later, if desired.

- If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
- If a formal grievance process is preferred, the Title IX Coordinator first determines if the misconduct alleged falls within the scope of Title IX:
  - If the alleged misconduct falls within the scope of Title IX, the Title IX Coordinator will initiate a formal investigation and the Title IX Hearing Process.
  - If the alleged misconduct does not fall within the scope of Title IX, the Title IX Coordinator will “dismiss” that aspect of the complaint, if any, and refer the matter to a formal investigation and the Discriminatory Harassment Administrative Resolution Process.
  - For both formal resolution processes, the Title IX Coordinator will direct the investigation to address an incident, and/or a pattern of alleged misconduct, and/or a culture/climate issue, based on the nature of the complaint.
- In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment should be conducted by the Threat Assessment Team as part of the initial assessment.

### Dismissal (Mandatory and Discretionary)

The University must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy, even if proved; and/or
- The conduct did not occur in an educational program or activity controlled by the University, and/or the University does not have control of the Respondent; and/or
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the University.

The University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- The Respondent is no longer enrolled in or employed by the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request

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to reinstate it.

### **Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. All parties have a full and fair opportunity to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

During an investigation, the Investigator(s) typically engage in the following steps (this list is not exhaustive, and the steps may not be taken in this order):

- In coordination with campus partners, initiate or assist with any necessary supportive measures.
- Commence a thorough, reliable, and impartial investigation. This includes interviews with all relevant parties and witnesses, and the collection of evidence.
- Allow parties to review and verify summaries from their interview(s).
- Provide parties the opportunity to present witnesses and evidence for review.
- Allow parties the opportunity to submit questions they would like asked of the other party, as well as any witnesses.
- Write a comprehensive investigation report, fully summarizing the investigation, all witness interviews, and addressing all relevant evidence.
- Provide status updates to the parties throughout the investigation.
- For the Title IX Hearing Process, prior to the conclusion of the investigation, provide the parties a copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- Incorporate relevant elements of the parties' responses into the final investigation report, including any additional relevant evidence, any necessary revisions, and finalize the report.

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the investigation or resolution process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria outlined in this policy. If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the process will resume at the

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same point where it was paused.

### **Delays in the Investigation Process and Interactions with Law Enforcement**

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. Parties will be notified in writing regarding the reasoning for any delays and the anticipated duration. The investigation and resolution process will resume as soon as feasible. University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **Counterclaims**

Upon receipt of a counterclaim, the Title IX Coordinator will assess whether the allegations in the counterclaim are made in good faith or for retaliatory purposes. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below but may occur after resolution of the underlying initial allegation. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

### **Role and Participation of Witnesses in the Investigation**

All witnesses, including employees, are expected to cooperate with and participate in the investigation and resolution process. Failure to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances may require individuals to be interviewed remotely. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews. Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

### **Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may select whomever they wish to serve as their Advisor, from inside or outside of the University community, as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s)



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### Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Advisors may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

### Sharing Information with the Advisor

The University expects that the Parties will wish to share documentation and evidence related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The Parties must complete this form before the University is able to share records with an advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd Parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University will restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations. The University will not comply with requests that all communication be made through a Party's Advisor.

### Expectations of an Advisor

The University generally expects an Advisor to adjust their schedule to allow them to attend investigation meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

### Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of any meeting or hearing (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

### Advisors in Title IX Hearings/University-Appointed Advisor

Title IX regulations require cross-examination during a hearing to be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any cross-examination. The University cannot guarantee equal Advisory rights, meaning that



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if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker(s) during the hearing.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an Advisor who is an institutional employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their advisee during the resolution process.

### **Advisor Violations of University Policy**

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during cross-examination in a Title IX hearing proceeding.

### **Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties will be made aware of audio and/or video recording.

### **Informal Resolution Process**

If either party wishes to initiate an Informal Resolution, they must notify the Title IX Coordinator. If the alleged misconduct falls within the scope of Title IX, a Complainant will be required to submit a formal complaint prior to proceeding with an Informal Resolution. Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter informally, in a manner agreeable to all parties;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.



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It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

The Title IX Coordinator may look to the following factors to assess whether Informal Resolution is appropriate:

- The parties' amenability to Informal Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Complaint complexity;
- Rationality of the parties;

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in an appropriate response, including disciplinary actions. Results of complaints resolved by Informal Resolution are not appealable.

### **Formal Resolution Process**

#### **Resolution Process Pool**

The resolution process relies on a pool of administrators ("the Pool") to carry out the process. The Pool members receive annual training; the materials used to train members of the Pool are publicly posted here: [www.gcu.edu/titleix](http://www.gcu.edu/titleix).

#### **Pool Member Roles**

Members of the Pool can serve in the following roles, at the direction of the Title IX Coordinator:

- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution
- To serve as a hearing Chair or facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

#### **Pool Member Appointment**

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. While members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different



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roles listed above in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

### **Withdrawal or Resignation While Charges are Pending**

Should a Respondent (student or employee) withdraw/resign during the resolution process, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination, and/or retaliation. The following stipulations will also apply:

Students: Should a student decide to not participate in the resolution process, the process proceeds to a reasonable resolution absent their participation. Should a student Respondent permanently withdraw from the University, the resolution process ends, as there is no disciplinary jurisdiction over the withdrawn student.

If a student Respondent permanently withdraws while the process is pending, they are ineligible to return to the University, and the Offices of Academic Records and Academic Compliance will be notified that they cannot be readmitted. They may also be barred from University property and/or events. If the student Respondent takes a leave of absence for a specified period of time, the resolution process may continue remotely, and that student is not permitted to return active enrollment unless the investigation is concluded and all sanctions have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. The employee who resigns with unresolved allegations pending is not eligible for rehire with the University.

### **Title IX Hearing Process**

The Title IX Hearing Process, as described below, applies **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members which fall within the scope of Title IX and do not meet the criteria for dismissal. If any component of the allegation meets these criteria, the Title IX Hearing Process will be utilized in lieu of the Discriminatory Harassment Administrative Resolution Process.

### **Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,



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- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- Information on the ability for each party to have an Advisor of their choosing,
- Details on how the party may request disability accommodations during the interview process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have,

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

### Evidentiary Considerations

The formal resolution process does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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 by the Complainant, 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.

### Referral for Hearing

Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing. The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker– unless all parties and the Decision-maker agree to an expedited timeline. The Title IX Coordinator will select an appropriate Chair, and Decision-makers from the Pool.

### Hearing Board Composition

The Title IX Coordinator designates a three-member panel from the Pool. One of the three members will be appointed as Chair by the Title IX Coordinator. The Chair serves to facilitate the hearing and decision-making process. The Hearing Board will not have had any previous involvement with the investigation.

### Notice of Hearing

Notice of the hearing will be provided to the parties (at least 10 days in advance). The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate



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rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker based on demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, hearing may be rescheduled.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

### Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

### Pre-Hearing Preparation

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the



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rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than three days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Decision-maker(s) will receive the investigative materials at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

### **Hearing Procedures**

Participants at the hearing will include the Chair, the Board members, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

### **Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

### **The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. The Chair then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by the Title IX Coordinator.

### **Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility,



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recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

### Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor will pose the proposed question orally, electronically, or in writing, the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

### Cross-Examination and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party’s or witness’s absence from the hearing or refusal to submit to cross-examination or answer other questions.

If a party’s Advisor of choice refuses to comply with the University’s established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### Recording Hearings

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an



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appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **Deliberation, Decision-making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached. When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the submitted party impact statements and any pertinent conduct history in determining appropriate sanction(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions. This report must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations.

### **Discriminatory Harassment Administrative Resolution Process**

The Discriminatory Harassment Administrative Resolution Process, as described below, applies to all allegations of harassment or discrimination based on protected class status, involving students, staff, faculty members, or third-parties, that are not eligible for resolution under the Title IX Hearing Process. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

### **Notice of Investigation**

If the Administrative Resolution Process is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties, as applicable, at an appropriate time during the investigation. Notification will include a meaningful summary of the allegations made in writing. The notification will include the policies allegedly violated, if known at the time. The policies allegedly violated can be modified, in writing, as the investigation progresses, and details become clearer.

### **Investigation and Resolution**

The investigation will commence in accordance with the process described in the preceding "Steps in the Investigation Process." Upon conclusion of the investigation, the Title IX Coordinator appoints a three-member decision-maker panel from the Pool members to review the investigative materials and all responses. The appointed decision-makers will conduct a thorough review and evaluate the totality



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of circumstances based on the preponderance of the evidence within 10 business days.

### **Sanctions**

Upon determination of a finding of responsibility in either the Title IX Hearing Process or Discriminatory Harassment Administrative Resolution Process, the following factors are considered when determining a sanction/responsive action, which may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions if the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a defined period and/or until specific criteria are met. After the suspension period is observed, a student is eligible to apply for reinstatement, although reinstatement is not guaranteed.
- *Expulsion*: Termination of student status and revocation of rights to be on campus for any



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reason or to attend University-sponsored events, for a period of two years. After the expulsion period is observed, a student is eligible to apply for reinstatement, although reinstatement is not guaranteed.

- *Denial of Commencement Participation:* The University may deny or restrict a student participation in commencement activities.
- *Organizational Sanctions:* Deactivation, loss of recognition, loss of some or all privileges for a specified period.
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## **b. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include disciplinary action, up to and including termination.

### **Notice of Outcome**

Upon conclusion of either the Title IX Hearing Process or Discriminatory Harassment Administrative Resolution Process, the Title IX Coordinator, in conjunction with the decision-making body as appropriate, will prepare the Notice of Outcome, including the finding for each alleged policy violation, the rationale supporting the essential findings, and any sanction(s). The Notice of Outcome will typically be issued within three business days; the Notice of Outcome will be delivered to the parties simultaneously. The determination may be appealed by either party, therefore, the Notice of Outcome includes the grounds on which the parties may appeal and the steps to request an appeal.

### **Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within 5 business days of the delivery of the Notice of Outcome. Any party may appeal the findings only under the grounds described below.

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, etc).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed fall outside the range of sanctions the University has designated for this offense.

Appeals will be reviewed as follows:

#### **Grievance Process Type**

#### **Appeal Decision-Maker**

Title IX Hearing Board Process

Three-member panel chosen from the pool, who were not previously



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involved in the resolution process.

Discriminatory Harassment  
Administrative Resolution  
Process

Three-member panel to include the Title IX Coordinator, and two pool members previously uninvolved in the resolution process.

Disability Discrimination and  
Accommodation

Three-member panel to include the 504 Coordinator, Director of Student Disability Services, and a pool member previously uninvolved in the resolution process.

Upon receipt of an appeal, the appropriate decision-maker(s) will review the request to determine if it meets the grounds for appeal. If the appeal does not meet the established criteria, the request will be denied and the parties will be notified in writing of the denial and the rationale. If the request does meet the established appeal criteria, the decision-maker(s) will be provided all the documentation and materials used to make the initial determination. Appeals are not intended to be full re-hearings of the allegation(s). In most cases, appeals are confined to a review of documentation or record of the investigation pertinent to the grounds for appeal.

The appeal decision-maker(s) will typically issue the determination within 5 business days of receipt of the accepted appeal. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each ground for appeal and rationale for each decision.

### **Appeal Considerations**

- Any sanctions imposed as a result of the hearing are postponed during the appeal process. Supportive measures may be reinstated.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeal decision-makers have the authority to apply any administrative resolution necessary based on the merits of an approved appeal, up to and including overturning a decision or sanction, fully or in part.
- In cases where new evidence is presented which warrants further review, the appeal timeframe may be extended. The parties will be notified of any such delays.
- An appeal decision is the final determination of the University.

### **Failure to Comply with Sanctions**

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in a referral to the University's Code of Conduct for students for additional sanction(s)/action(s), including expulsion. Employees will be referred to Human Resources for further corrective action up to and including termination.



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