

TITLE IX GRIEVANCE PROCEDURES (PART 1) – SEX-BASED HARASSMENT

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GRIEVANCE PROCEDURES

I. Purpose

The purpose of these Title IX Grievance Procedures (Part 1) – Sex-Based Harassment (“Grievance Procedures”) is to describe how Governors State University (the “University”) will promptly and equitably resolve complaints of sex-based harassment under the University’s Anti-Sex Discrimination (Title IX) Policy.

II. Scope and Application

These Grievance Procedures apply to all complaints of sex-based harassment brought by a complainant within the scope of the Anti-Sex Discrimination (Title IX) Policy. The grievance process set forth in Section XVI hereof applies to Formal Complaints of Sexual Harassment as explained in paragraph XVI.A. The complaint resolution process set forth in Sections VII-XV applies to all other complaints that fall within the scope of these Grievance Procedures.

III. Authority

- A. These Grievance Procedures are promulgated under section XIII.B of the University’s Anti-Sex Discrimination (Title IX) Policy.
- B. The President hereby designates the University’s Title IX Coordinator to oversee the resolution of complaints of sex discrimination and retaliation and to ensure compliance with these Grievance Procedures.

IV. Definitions

Except as provided to the contrary in Section XVI, the definitions provided in this Section IV apply for purposes of these Grievance Procedures. To the extent a definition in this Section, or elsewhere in these Grievance Procedures, differs from the definition provided for the same term in the Anti-Sex Discrimination (Title IX) Policy, the definition provided in these Grievance Procedures shall control for purposes of interpreting and implementing these Grievance Procedures.

- A. “Advisor” (a capitalized term) means an individual chosen by a party to accompany that party to any or all meetings, interviews, or other proceedings under these Grievance Procedures as described further herein. An Advisor may be, but is not required to be, an attorney retained by a party.
- B. “Complainant” means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX or the Anti-Sex Discrimination (Title IX) Policy; or
 - (2) An individual other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX or the Anti-Sex Discrimination (Title IX) Policy and who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex-based harassment.
- C. "Complaint" means an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged sex-based harassment under Title IX or the Anti-Sex Discrimination (Title IX) Policy.
- D. "Consent" means a freely, voluntarily, and knowingly given agreement to engage in sexual activity; and:
- (1) Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity.
 - (2) Lack of verbal or physical resistance or submission resulting from the use of force or threat of force does not constitute consent.
 - (3) An individual's manner of dress does not constitute consent.
 - (4) An individual's consent to past sexual activity does not constitute consent to future sexual activity. An individual's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
 - (5) An individual can and may withdraw consent at any time.
 - (6) An individual cannot consent to sexual activity if that individual is unable to understand the nature of the activity or give knowing agreement due to circumstances such as, but not limited to: (a) the individual is incapacitated due to the use or influence of alcohol or drugs, (b) the individual is asleep or unconscious, (c) the individual is underage, or (d) the individual is incapacitated due to a mental disability.
 - (7) When consent is withdrawn or can no longer be given, sexual activity must stop.

- (8) The definition of consent does not vary based upon an individual's sex, sexual orientation, or gender identity or expression.
- E. "Corrective action" means any appropriate prompt and effective step(s), other than supportive measures, remedies, or disciplinary sanctions, to ensure that sex-based harassment does not continue or recur within the University's education program or activity.
- F. "Decisionmaker" (a capitalized term) means the individual(s) assigned to make a determination whether the University's prohibition on sex-based harassment was violated and sex-based harassment occurred (as described below). "Appeal Decisionmaker" (a capitalized term) means the individual(s) assigned to decide an appeal conducted under these Grievance Procedures (as described below).
- G. "Disciplinary sanctions" means consequences imposed on a respondent following a determination under these Grievance Procedures that the respondent violated the University's prohibition on sex-based harassment set forth in the Anti-Sex Discrimination (Title IX) Policy.
- H. "Employee" means (1) all members of the University Board of Trustees appointed by the State Governor; and (2) anyone who is hired and retained to perform duties in exchange for compensation in the form of an hourly wage, annualized salary, or stipend and receives this compensation as income which is processed through the University's semi-monthly payroll processing.
- I. "Investigator" (a capitalized term) means the individual(s) assigned to conduct the Evaluation Stage and Investigation Stage of these Grievance Procedures (as described below).
- J. "Party" means a complainant or a respondent.
- K. "Peer retaliation" means retaliation by a student against another student.
- L. "Pregnancy or related conditions" means:
- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
 - (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
 - (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

- M. “Preventing Sexual Violence in Higher Education Act” means the Illinois statute codified at 110 ILCS 155/1 *et seq.*, as it may be amended from time to time.
- N. “Relevant” means related to the allegations of sex-based harassment under investigation as part of the complaint resolution process under these Grievance Procedures. Questions are “relevant” when they seek evidence that may aid in showing whether the alleged sex-based harassment occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex-based harassment occurred.
- O. “Remedies” means measures provided, as appropriate, to a complainant or any other individual the University identifies as having had their equal access the University’s education program or activity limited or denied by sex-based harassment. These measures are provided to restore or preserve that individual’s access to the University’s education program or activity after a determination has been made in accordance with these Grievance Procedures that sex-based harassment occurred.
- P. “Respondent” means a person who is alleged to have violated the University’s prohibition on sex-based harassment under the Anti-Sex Discrimination (Title IX) Policy.
- Q. “Response Procedures” (a capitalized term) means, the University’s Title IX Response Procedures promulgated in accordance with section XIII of the Anti-Sex Discrimination (Title IX) Policy.
- R. “Retaliation” means:
- (1) Intimidation, threats, coercion, or discrimination against any individual by the University; a student; or an employee or other person authorized by the University to provide aid, benefit, or service under the University’s education program or activity;
 - (2) For the purpose of interfering with any right or privilege secured by Title IX, the Preventing Sexual Violence in Higher Education Act, or the Anti-Sex Discrimination (Title IX) Policy; or because the individual has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, informal resolution process, or hearing under these Grievance Procedures.

For purposes of these Grievance Procedures, the term “retaliation” shall be construed to include peer retaliation.

- S. “Sex characteristics” means, generally, an individual’s physiological sex characteristics and other inherently sex-based traits, including intersex traits. For purposes of this definition, the term “intersex” means, generally, individuals with variations in physical sex characteristics, which variations may involve anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with male and female bodies.
- T. “Sex discrimination” means discrimination against an individual because of that individual’s actual or perceived sex, gender identity or expression, and/or sexual orientation, and includes:
- (1) Discrimination on the basis of sex stereotypes and sex characteristics;
 - (2) Discrimination on the basis of pregnancy or related conditions; and
 - (3) Sex-based harassment.
- U. “Sex stereotypes” means fixed or generalized expectations regarding an individual’s aptitudes, behavior, self-presentation, or other attributes based on sex.
- V. “Sex-based harassment” is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex (including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity or expression), that is one or more of the following):
- (1) “Quid pro quo harassment,” which is when an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity explicitly or impliedly conditions the provision of such an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct.
 - (2) “Hostile environment harassment,” which is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies an individual’s ability to participate in or benefit from the University’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the complainant’s ability to access the University’s education program or activity;

- (ii) The type, frequency, and duration of the conduct;
 - (iii) The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other sex-based harassment in the University's education program or activity.
- (3) One or more of the following specific offenses:
- (i) "Sexual violence" meaning physical sexual acts attempted or perpetrated against an individual without that individual's consent or when that individual is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, sexual coercion, and all other offenses classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - (ii) "Dating violence" meaning violence committed by an individual:
 - (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (b) Where the existence of such a relationship shall 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 individuals involved in the relationship.
 - (iii) "Domestic violence" meaning felony or misdemeanor crimes committed by an individual who:
 - (a) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of Illinois, or a person similarly situated to a spouse of the victim;

- (b) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (c) Shares a child in common with the victim; or
 - (d) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of Illinois.
 - (iv) “Stalking” meaning engaging in a course of conduct directed at a specific individual that would cause a reasonable person to:
 - (a) Fear for the individual’s safety or the safety of others; or
 - (b) Suffer substantial emotional distress.
- W. “Sexual Harassment” (a capitalized term) means a subset of sex-based harassment where conduct on the basis of sex satisfies one or more of the following:
- (1) An employee conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;
 - (2) Unwelcome sexual conduct determined by a reasonably person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; or
 - (3) The definition of “sexual violence,” the definition of “dating violence,” the definition of “domestic violence,” or the definition of “stalking,” set forth above as subparts (3)(i)-(iv) of the definition of “sex-based harassment.”
- X. “Sexual orientation” and “gender identity or expression” mean the actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity or expression of an individual, whether or not traditionally associated with the individual’s designated sex at birth.
- Y. “Student” means an individual who has gained admission to the University and has a current right to enroll or matriculate in or at an education program or activity operated by the University.

- Z. “Student with a disability” means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 705(9)(B), (20)(B).
- AA. “Supportive measures” means individualized measures offered as appropriate; as reasonably available; without unreasonably burdening a complainant or respondent; not for punitive or disciplinary reasons; and without fee or charge to a complainant or respondent to:
- (1) Restore or preserve that individual’s access to the University’s education program or activity, including measures that are designed to protect the safety of the individual(s) or the University’s educational environment; or
 - (2) Provide support during these Grievance Procedures for resolving complaints.
- BB. “Title IX” means, collectively, Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. §§ 1681, 1682, 1683, 1685, 1686, 1687, 1688, 1689), and all regulations promulgated thereunder, including 34 C.F.R. Part 106, as such statutes and regulations may be amended from time to time.
- CC. “Title IX Coordinator” means, for purposes of the complaint resolution process set forth below, an employee designated and authorized to serve as the/a University Title IX Coordinator pursuant to the Anti-Sex Discrimination (Title IX) Policy; or the one or more individuals to whom the University Title IX Coordinator may delegate duties from time to time pursuant to the Anti-Sex Discrimination (Title IX) Policy.

V. Generally Applicable Provisions

The following general provisions and principles apply to all resolutions of complaints under these Grievance Procedures:

- A. Complainants and respondents will be treated equitably during the complaint resolution process.
- B. Proceedings under these Grievance Procedures are not judicial court proceedings, and the rules of evidence and procedures applicable to judicial proceedings do not apply here.
- C. No Title IX Coordinator, Investigator, informal resolution facilitator (if any), Decisionmaker, or Appeal Decisionmaker associated with the resolution of a complaint may have a conflict of interest or bias for or against complainants or respondents generally or a specific party. If, at any point

during the resolution process, an impermissible conflict or bias is identified, the conflicted or biased individual will be immediately removed from the resolution process and an individual without conflict or bias will be assigned to take over their role.

- D. Every respondent is presumed not to have engaged in and not be responsible for the alleged sex-based harassment unless and until a determination otherwise is made at the conclusion of the complaint resolution process set forth in these Grievance Procedures.
- E. All parties will be provided the same opportunities to be accompanied to any meeting, interview, hearing, or other proceeding under these Grievance Procedures by the Advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of the Advisor at any proceeding; however, the University has established restrictions regarding the extent to which Advisors may participate in the resolution process, which restrictions apply equally to complainants and respondents. The University is under no obligation to provide parties with attorney Advisors.
- F. The University will take reasonable steps to protect the privacy of parties and witnesses during the pendency of these Grievance Procedures; however, such steps may not and will not restrict the ability of parties: (1) to obtain and present evidence, including by speaking to witnesses (subject to the prohibition on retaliation); (2) consult with their Advisors, family members, confidential resources, or other personal advisors; or (3) otherwise prepare for or participate in the Grievance Procedures.
- G. The University will take reasonable steps to prevent and address the parties' and Advisors' unauthorized disclosure of information and evidence obtained solely through the Grievance Procedures. For purposes of this provision, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint are authorized.
- H. The following types of evidence, and questions seeking such evidence, will be excluded from the resolution process as "impermissible" (*i.e.*, must not be accessed or considered, except by the Title IX Coordinator, Investigator, or Decisionmaker, as appropriate, to determine whether an exception to subparagraphs (1) through (3) applies; must not be disclosed; and must not otherwise be used), regardless of whether such evidence or questions are otherwise "relevant":

- (1) Evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use of the records in the Grievance Procedures; and
- (3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged sex-based harassment or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the complainant and the respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

- I. If a complainant or respondent is student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that the University has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

VI. Complaints of Sex-Based Harassment

A. Complaints Made by Complainants

1. The following individuals shall have the right to make a complaint of sex-based harassment requesting that the University investigate and make a determination about alleged sex-based harassment under the Anti-Sex Discrimination (Title IX) Policy in accordance with these Grievance Procedures:

- (i) A complainant; and

- (ii) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant.

2. In the event a complainant makes their complaint to an employee other than the Title IX Coordinator, the Title IX Coordinator may ask the complainant to confirm that the complainant wants the University to investigate and make a determination about alleged sex-based harassment in accordance with these Grievance Procedures.

3. If a complaint is made orally, the Title IX Coordinator or Investigator shall reduce it to writing in a format adequate for recordkeeping purposes.

B. Complaints Initiated by the Title IX Coordinator

1. In the absence of a complaint made by a complainant, when notified of conduct that reasonably may constitute sex-based harassment, the Title IX Coordinator may decide to initiate a complaint based on such conduct for resolution under these Grievance Procedures.

(i) In deciding whether to initiate a complaint under such circumstances, the Title IX Coordinator will consider, at a minimum, the following factors:

- (a) Whether the conduct as alleged would constitute sex-based harassment even if proven;
- (b) The request by a complainant not to proceed with initiation of a complaint;
- (c) The reasonable safety concerns of a complainant regarding initiation of a complaint;
- (d) The risk that additional acts of sex-based harassment would occur if a complaint were not initiated;
- (e) The severity of the alleged sex-based harassment, including whether the harassment, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the sex-based harassment and prevent its recurrence;
- (f) The age and relationship of the parties, including whether the respondent is an employee;

- (g) The scope of the alleged sex-based harassment, including information suggesting a pattern, ongoing sex-based harassment, or sex-based harassment alleged to have impacted multiple individuals;
- (h) The availability of evidence to assist a Decisionmaker in determining whether sex-based harassment occurred, including whether the complainant will cooperate in the process; and
- (i) Whether the University could end the alleged sex-based harassment and prevent its recurrence without initiating these Grievance Procedures.

(ii) If, after considering these and other relevant factors, the Title IX Coordinator decides that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other individual, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

2. If initiating a complaint under this paragraph B, the Title IX Coordinator will notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures consistent with Section XVII.

3. Where the Title IX Coordinator initiates a complaint, the Title IX Coordinator is not a "complainant" or otherwise a "party" for purposes of these Grievance Procedures.

4. A complainant cannot be compelled to participate when the complaint is initiated by the Title IX Coordinator.

C. Consolidation of Complaints

1. For purposes of applying these Grievance Procedures, the Title IX Coordinator may consolidate multiple complaints as to allegations of sex-based harassment, other sex discrimination, and/or retaliation against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, when the allegations of sex-based harassment, other sex discrimination, and/or retaliation arise out of the same facts or circumstances. Whenever a collection of consolidated complaints involves any allegation(s) of sex-based harassment, these Grievance Procedures must be applied to all

consolidated complaints, even if other grievance procedures might apply to a complaint of other sex discrimination or retaliation if not so consolidated.

2. Where a resolution process involves more than one complainant or more than one respondent, references in these Grievance Procedures to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

VII. Assignment of Personnel

A. As soon as reasonably practicable after initiating a complaint, receiving a complaint directly (either orally or in writing) from a complainant, or being otherwise notified that a complaint has been made and receiving confirmation that the complainant does want the Grievance Procedures initiated (if such confirmation is requested), the Title IX Coordinator will assign an appropriate individual or individuals to serve in the roles of Investigator and Decisionmaker for the complaint. With respect to such assignments:

- (1) Different individuals may (but need not) serve as the Investigator during the Evaluation Stage (see below) and during the Investigation Stage (see below);
- (2) Multiple individuals may be assigned to serve as Investigators at the same time, in which case those individuals may split the “Investigator” duties between/among themselves as they deem appropriate;
- (3) An Investigator may be the same individual as the Title IX Coordinator; and
- (4) The Decisionmaker may be the same individual as an Investigator and/or the Title IX Coordinator.
- (5) An Appellate Decisionmaker may not be the same individual as an Investigator, the original Decisionmaker, and/or the Title IX Coordinator.

B. If, at any time during the course of the proceedings, an assigned individual must leave (or be removed from) the Investigator and/or Decisionmaker role, the Title IX Coordinator will, if necessary, assign another appropriate individual to serve as the Investigator and/or Decisionmaker. In the event a new Investigator and/or Decisionmaker must be assigned:

- (1) The Title IX Coordinator will notify all known parties, simultaneously and in writing, about the identity(ies) of the new assignee(s).

- (2) The new assignee(s) will continue the complaint resolution process as promptly as reasonably possible after being assigned.

C. Where a resolution process involves more than one Investigator or Decisionmaker, references in these Grievance Procedures to the singular “Investigator” and “Decisionmaker” include the plural, as applicable.

VIII. Evaluation Stage

A. Upon being assigned to a complaint, the Investigator will conduct an evaluation (the “Evaluation”) during which the Investigator must attempt to make the following determinations, if not already known, or to document the following details:

- (1) Whether the individual who made the complaint is a qualified complainant under the Anti-Sex Discrimination (Title IX) Policy and these Grievance Procedures.
- (2) The identity of the respondent.
- (3) Whether the respondent is a current employee or student or otherwise currently participating in the University’s education program or activity.
- (4) Whether the conduct alleged in the complaint, if proven to have occurred, would constitute sex-based harassment or other form of sex discrimination under Title IX or the Anti-Sex Discrimination (Title IX) Policy.
- (5) Whether the University has reasonable access to all or substantially all potential witnesses and sources of information necessary to prove or disprove the allegations of sex-based harassment.

B. During the Evaluation, the Investigator may speak with any individuals or review any records at their discretion.

C. At the conclusion of their Evaluation, the Investigator will share the results of same with the Title IX Coordinator (if the Investigator and the Title IX Coordinator are not the same individual).

D. After considering the results of the Evaluation, the Title IX Coordinator may, but need not, dismiss the complaint, if any of the optional bases for a dismissal exist, pursuant to Section XIII.

IX. Investigation Stage

A. Notice of Allegations

1. As soon as reasonably practicable after the Title IX Coordinator has had the opportunity to consider the results of the Evaluation, the Investigator will issue a written notice of the investigation and allegations (a “Notice of Allegations”) to all known parties.
2. The Notice of Allegations will include:
 - (i) The name and contact details of the Investigator who will be conducting the Investigation Stage. If a different individual served as the Investigator during the Evaluation Stage, the Notice of Allegations will also identify that individual.
 - (ii) Notice of these Grievance Procedures and the Anti-Sex Discrimination (Title IX) Policy.
 - (iii) A statement of the allegations of sex-based harassment underlying the complaint, including, to the extent such details are known at the time the Notice of Allegations is issued:
 - (a) The identities of the parties involved in conduct allegedly constituting sex-based harassment; and
 - (b) The date(s) and location(s) of the conduct allegedly constituting sex-based harassment.
 - (iv) A statement that the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the resolution process under these Grievance Procedures and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.
 - (v) A statement that the parties may each have an Advisor of their choice, who may be, but is not required to be, an attorney.
 - (vi) A statement that the parties are entitled to equal opportunity to access the relevant and not otherwise impermissible evidence gathered and obtained as part of the investigation process.
 - (vii) A statement that retaliation is prohibited.

(viii) Notice that the University prohibits knowingly making false statements or knowingly submitting false information during the resolution process.

3. The Notice of Allegations may include information regarding informal resolution (see Section XV), if the University elects to offer such an option to the parties.

4. The Notice of Allegations will be amended if and as necessary during the investigation process should more information become available regarding the addition, alternation, or dismissal of various allegations.

5. To the extent the University has reasonable concerns for the safety on any individual as a result of providing a Notice of Allegations, the University may reasonably delay providing the Notice of Allegations in order to address the safety concerns appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

B. Response to Allegations

1. The respondent may, if they so elect, submit a written response to the allegations in the Notice of Allegations (a "Response") for the Investigator to consider prior to the start of the investigation process.

2. A Response must be submitted to the Investigator within five (5) business days from the date the Notice of Allegations is delivered. No specific format is required for the Response, other than that the Investigator must be able to read it.

3. This paragraph B is intended to provide a respondent with the opportunity to provide their "side of the story" to the Investigator (who at this point in the Grievance Procedures has likely only learned the complainant's "side of the story") before the Investigator begins the investigation process. If no Response is submitted during the set time frame, the respondent will still have a full opportunity to respond to the allegations in the complaint, but the Investigator may have already begun gathering evidence before receiving the respondent's response.

4. In a Response, the respondent may deny the allegations, admit the allegations, deny some of the allegations and admit others, and/or provide any other relevant information the respondent wishes the Investigator to know as the investigation process begins.

5. As soon as practicable after receipt of a Response, the Investigator shall ensure that a copy of the Response is shared with the complainant.

6. In the event the Notice of Allegations is later amended to include revised allegations, the Respondent may submit a new Response addressing the revised allegations within five (5) business days from the date the amended Notice of Allegations is delivered.

C. Investigation Process

1. General Principles of the Investigation Process

(i) All investigations are to be thorough, reliable, impartial, prompt, and fair.

(ii) The burden of gathering evidence sufficient to determine whether sex-based harassment occurred rests on the University and not on the parties.

(iii) All parties have an equal opportunity to present fact witnesses, expert witnesses (if allowed), and other inculpatory and exculpatory evidence (that are relevant and not otherwise impermissible) to the Investigator.

(iv) The Investigator will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of each hearing, investigative interview, or other meeting conducted during the investigation process, with sufficient time for the party to prepare to participate.

(v) The Investigator will review all evidence gathered through the investigation process and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

(vi) All parties will have the same opportunity to have their Advisor, if any, present at any hearing, investigative interview, or other meeting conducted during the investigation process.

2. Expert Witnesses as Part of the Investigation Process

(i) The Investigator has discretion to determine whether the parties may present expert witnesses (at their own expense) as part of the investigation process, and the determination will apply equally to the parties. If the Investigator decides to allow expert witnesses, their evidence must be relevant and not otherwise impermissible.

(ii) In determining whether to allow expert witnesses, the Investigator should consider, at a minimum, the following:

- (a) Whether scientific, technical, or other specialized knowledge would assist the Decisionmaker to understand the relevant fact evidence or to determine a disputed fact;
- (b) Whether relevant, qualified experts have been identified, or could easily be identified, and could easily be retained;
- (c) Whether the costs associated with obtaining an expert witness's relevant opinion or analysis might outweigh the benefit of such expert witness's expertise to the Decisionmaker; and
- (d) Whether allowing expert witnesses might introduce delays in completing the complaint resolution process that might outweigh the benefit of such expert witness's expertise to the Decisionmaker.

(iii) In making a determination regarding the allowance of expert witnesses, the Investigator may consult with the Title IX Coordinator and/or University legal counsel.

(iv) If the Investigator decides to allow expert witnesses, then:

- (a) Every expert witness opinion, inference, or analysis must be relevant and not otherwise impermissible.
- (b) Every expert witness must disclose the facts or data underlying their opinion(s), inference(s), or analysis(es) to the Investigator. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject at issue, the facts or data underlying an expert witness's opinion(s), inference(s), or analysis(es) need not be otherwise relevant to the complaint, but they must not be impermissible.
- (c) An expert witness may provide their opinion(s), inference(s), or analysis(es) to the Investigator in writing, at their discretion; and must make themselves available for an investigatory interview, at the Investigator's discretion.

3. Steps in the Investigation Process

(i) The Investigator will typically take the following steps to compile as much relevant (and not otherwise impermissible) inculpatory and exculpatory evidence as reasonably possible during the investigation process:

- (a) Commence the process by identifying issues and developing a strategic investigation plan (subject to update as evidence is gathered), including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and parties.
- (b) Ask the parties to identify any witness(es) and/or other evidence they each wish to present to the Investigator for consideration as part of the investigation process.
- (c) Interview all reasonably available, relevant witnesses and the parties and conduct follow-up interviews as necessary.
- (d) Review all documentary or physical evidence provided by the parties and/or witnesses.
- (e) Request, obtain, and review documents or other records or physical items that the Investigator reasonably believes may provide relevant (and not otherwise impermissible) evidence.
- (f) Complete the gathering of evidence promptly and without unreasonable deviation from the intended timeline.
- (g) Amend the Notice of Allegations as warranted by the investigation process and revise the allegations therein as appropriate based on testimonial and documentary evidence obtained.

There is no strict requirement that every step listed above must be taken, that the steps must be taken in the order presented, or that no other steps may be taken. The exact steps taken in any investigation process will depend upon the specific circumstances of the complaint, and the reasonable discretion of the Investigator.

(ii) After completing the gathering of evidence, the Investigator must provide each party (and their Advisor, if any) with access to all relevant (and not otherwise impermissible) evidence compiled by the Investigator from all sources, including both inculpatory and exculpatory evidence, so that the parties and Advisors may inspect and review such relevant evidence.

(iii) After receiving such access to the relevant evidence, the parties will have ten (10) business days to submit a written response about the relevant evidence to the Investigator, which the Investigator will consider prior to completion of the Investigation Report (see below). No party is required to submit a written response about the relevant evidence, and there is no required format other than that the Investigator must be able to read it.

D. Investigation Report

1. After receiving the parties' written responses (if any) about the relevant evidence, the Investigator must create an investigation report ("Investigation Report") that:

- (i) Describes the investigation process to date, including the procedural steps taken since receipt of the complaint, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- (ii) Fairly organizes all the relevant (and not otherwise impermissible) evidence gathered;
- (iii) Identifies and provides contact details for the Decisionmaker assigned to the complaint (if the Decisionmaker is different than the Investigator) or confirms that the Investigator will be serving as Decisionmaker;

2. The following documents must be appended to the Investigation Report: (i) the written version of the complaint (*i.e.*, the original complaint if submitted by the complainant in writing or the Title IX Coordinator or Investigator's written version of an oral complaint); (ii) the Notice of Allegations and any amendments thereto; (iii) the respondent's Response(s) to the Notice(s) of Allegations (if any); and (iv) copies of the parties' written responses to the evidence (if any).

3. Additional appendices, including (i) relevant physical or documentary evidence, and (ii) transcripts, recordings, or outlines/write-ups of all interviews, should be attached to the Investigation Report as reasonably

practicable. If it is not reasonably practicable to attach all such additional appendices (e.g., because the volume of such material would make the Investigation Report too difficult to share with the parties and Advisors), some portion of or all the relevant evidence and transcripts, recordings, or outlines/write-ups of interviews may be collected separately from the Investigation Report, but they must be organized in such a way that they may be clearly identified and located using textual references in the Investigation Report.

4. The Investigation Report must include no credibility determinations, conclusions, policy analysis, or recommendations.

5. The complete Investigation Report must be provided to all parties and their Advisors simultaneously. The complete Investigation Report should also be provided to the Title IX Coordinator and Decisionmaker (if different than the Investigator) as soon as reasonably practicable thereafter.

X. Hearing Stage

A. Determination Whether to Hold a Hearing

As soon as reasonably practicable after the Investigation Report is delivered to the parties (and to the Decisionmaker if a different individual than the Investigator), the Decisionmaker must determine whether they must hold or will choose to hold a hearing (a "Hearing") prior to reaching their determination whether sex-based harassment occurred.

1. Mandatory Hearings

A Hearing must be held if:

- (i) The credibility of one or more parties or witnesses is both in dispute and relevant to evaluating one or more allegations of sex-based harassment; or
- (ii) Applicable law requires one.

2. Discretionary Hearings

When a Hearing is not mandatory in accordance with subparagraph A.1., the Decisionmaker has discretion to hold a Hearing or not. In exercising their discretion, the Decisionmaker should take into consideration, at a minimum, the following factors:

- (i) The Title IX Coordinator's input;

- (ii) The preferences of the parties regarding a Hearing;
- (iii) Any “best practices” for addressing the type of sex-based harassment alleged in the complaint; and
- (iv) The reasonably expected timeline for reaching a final determination if a Hearing were to be held.

3. Notice Regarding Hearing

- (i) Once the Decisionmaker has determined whether a Hearing will be held, the Decisionmaker will inform the parties and their Advisors, simultaneously in writing, whether there will be a Hearing (a “Notice Regarding Hearing”).
- (ii) The Notice Regarding Hearing will explain why there will or will not be a Hearing as part of the resolution process for the complaint and describe the applicable next steps under these Grievance Procedures.

B. Next Steps

1. If no Hearing will be held, the complaint resolution process will move to the Determination Stage under Section XI.
2. If a Hearing will be held, the Hearing Stage will proceed in accordance with paragraphs C-D of this Section.

C. Pre-Hearing Procedure

1. When there is to be a Hearing, once the Notice Regarding Hearing has been delivered, the Decisionmaker will initiate the Hearing process by scheduling a pre-hearing conference (the “Pre-hearing Conference”) with all parties and Advisors. The Pre-hearing Conference will be scheduled for a mutually acceptable date not less than ten (10) business days after delivery of the Notice Regarding Hearing. The Pre-hearing Conference may be held in person or virtually, at the Decisionmaker’s discretion. Prior to the scheduled date, the Decisionmaker will confirm the date, time, and means of holding the Pre-hearing Conference in writing for the parties and their Advisors.
2. At the Pre-hearing Conference, the attendees must discuss at least:
 - (i) whether the Hearing will be held virtually or in person (and, if so, where);
 - (ii) what witnesses, if any, each party and the Decisionmaker want to call at the Hearing;
 - (iii) the process by which the parties may propose questions and follow-up questions for other parties and witnesses;
 - (iv) whether the

parties will be allotted time (and how much) to make opening and/or closing statements to the Decisionmaker; (v) what technology will be available (if any) for sharing documentary or physical evidence among the necessary Hearing attendees; and (vi) the University's Rules of Decorum for Hearings. The attendees may discuss any other topics the Decisionmaker believes appropriate.

3. No later than five (5) business days after the Pre-hearing Conference, the Decisionmaker shall circulate to the parties and Advisors a set of minutes or other appropriate memorandum reflecting what was decided following the Pre-hearing Conference.

4. Either before or after the Pre-hearing Conference, the Decisionmaker must schedule a date or series of dates and length of time for the Hearing, which must not begin less than ten (10) business days after the Pre-hearing Conference.

5. No less than ten (10) business days prior to the start of the Hearing, the Decisionmaker shall provide the parties and Advisors with formal, written notice of the Hearing (a "Notice of Hearing"), which will contain:

- (i) The time, date, and location of the Hearing.
- (ii) The identification of any technology that will be used to facilitate the Hearing.
- (iii) Information on how the University anticipates recording the Hearing and on access to the recording for the parties after the Hearing.
- (iv) A statement that if any party, Advisor, or witness does not appear at the scheduled Hearing, the Hearing may be held in their absence, at the Decisionmaker's discretion.
- (v) 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 five (5) business days prior to the Hearing.
- (vi) A copy of the University's Rules of Decorum for Hearings and reminder that all Hearing attendees must abide by those Rules of Decorum.
- (vii) An overview of the procedures by which the Decisionmaker will run the Hearing.

(viii) Information on appeals.

6. Any party or Advisor that wishes to request any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing must do so at least five (5) business days prior to the Hearing or, in emergency situations, as soon as reasonably possible.

D. Hearing Procedure

1. The Decisionmaker has ultimate authority over proceedings during a Hearing, but they must exercise that authority in a way that is equitable to all parties and consistent with the University's Rules of Decorum for Hearings.

2. At the Hearing, the Decisionmaker has the authority to hear and make determinations on all allegations of misconduct and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sex-based harassment described in a Notice of Allegations.

3. The Decisionmaker will conduct all questioning of the Investigator (if applicable), parties, and witnesses at the Hearing. The parties will have an equal opportunity to propose relevant and not otherwise impermissible questions and follow-up questions to be asked of the other parties and witnesses as follows:

- (i) Each party must propose such questions and follow-up questions that the party wants asked of any other party or witness to the Decisionmaker, in writing, as and when the Decisionmaker reasonably directs.
- (ii) The Decisionmaker will determine whether each proposed question is relevant and not otherwise impermissible.
 - (a) If a question is both relevant and not impermissible, the Decisionmaker will pose the question to the intended party or witness.
 - (b) If a question is either not relevant or is impermissible, the Decisionmaker will exclude the question and provide an explanation as to why the question is being excluded.
 - (c) If a question is relevant and not impermissible but is unclear or harassing, the Decisionmaker will give the

party proposing the question an opportunity to clarify or revise the question. If the party clarifies or revises the question so that it is no longer unclear or harassing and still relevant and not impermissible, the Decisionmaker will pose the question to the intended party or witness. If the party does not clarify or revise the question so that it is no longer unclear or harassing, the Decisionmaker will exclude it.

- (iii) "Follow-up" questions must relate to the answer(s) received from the party or witness asked the original question(s).

4. During the course of a Hearing, the following events will occur, in whatever order the Decisionmaker deems most appropriate:

- (i) Opening statements by the parties if permitted by the Decisionmaker.
- (ii) If the Decisionmaker was not also the Investigator, the Investigator must present the Investigation Report:
 - (a) The Investigator will present a summary of the Investigation Report, including items that are contested and those that are not, and will be subject to questioning.
 - (b) Neither the parties nor the Decisionmaker may seek the Investigator's opinion on credibility, recommended findings, or determinations, and the Investigator and parties must refrain from discussion of or questions about these assessments. If such information is introduced, the Decisionmaker must disregard it.
- (iii) One at a time (if more than one is being called), each witness called by a party or the Decisionmaker will submit to questioning.
- (iv) Each party will be given the opportunity to respond to the Investigation Report and to provide relevant information and documentary/physical evidence in turn.
- (v) Each party also will submit to questioning, including relevant and not impermissible questions posed by the other party (*i.e.*, "cross-examination").

(vi) Closing statements by the parties if permitted by the Decisionmaker.

5. All evidence and questions are subject to a relevance determination by the Decisionmaker. The Decisionmaker will limit or disallow evidence (whether testimony, documents, or other physical items) and/or questions on the basis that they are not relevant, impermissible, unduly repetitious (and thus irrelevant), or abusive.

6. No party is required to propose questions of any witness or other party or to present documentary or physical evidence during a Hearing. However, each party is expected to submit to questioning by the Decisionmaker and cross-examination.

7. The Decisionmaker may place reasonable time limitations on all aspects of the Hearing, but those limitations must be fair for all parties.

8. The Decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Decisionmaker may not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

9. At the Decisionmaker's request, an appropriate employee may participate in the Hearing solely to assist with logistics, technology, organizing witness participation, or similar services.

10. In the event a Hearing runs longer than anticipated, the Decisionmaker has the authority to adjourn the Hearing at an appropriate time on the originally scheduled date and work with the parties to schedule a continuation of the Hearing on a later date.

11. Hearings are recorded by the University, and the recording will be made available to the parties and their Advisors for inspection and review. The parties may not record the proceedings, and no other unauthorized recordings (whether audio, visual, or audiovisual) are permitted. At the start of the Hearing, or at the start of each day of the Hearing if it lasts multiple days, the Decisionmaker will inform the parties how the Hearing is being recorded at that time.

XI. Determination Stage

A. Determination without a Hearing

1. When no Hearing is held, the Notice Regarding Hearing must include an explanation of the process of reaching a determination "on the papers"

(i.e., without benefit of a Hearing on the evidence). The Decisionmaker must provide the parties and their Advisors with a schedule of due dates for their Report Responses and Report Replies (explained below) and an estimated determination date.

2. When a determination is to be made on the papers, each party will have the opportunity to submit a written response to the Investigation Report (a "Report Response") and a written reply (a "Report Reply") to the other party's Report Response.

3. The Decisionmaker will set the schedule for the parties' submissions, with the Report Responses to be due not less than ten (10) business days from the date the Notice Regarding Hearing was delivered to the parties and the Report Replies to be due not less than five (5) business days from the date the Report Responses are due.

4. The Decisionmaker shall exchange the Report Responses for the parties as closely as practicable to the same time, and as soon as practicable after the Report Response due date.

5. With their Report Response, a party may submit any additional relevant (and not otherwise impermissible) evidence they wish to bring to the Decisionmaker's attention that is not already covered in the Investigation Report. The content of a Report Reply should be limited to a discussion of/argument against the other party's Report Response. No party is required to submit a Report Response or a Report Reply, and there is no required format for either document other than that the Decisionmaker must be able to read it.

6. After the parties have had their opportunity to submit their Report Responses and Report Replies, the Decisionmaker will make a determination regarding the alleged sex-based harassment, including whether the respondent engaged in prohibited sex-based harassment, (a "Determination") based on the relevant evidence gathered by the Investigator, the Investigation Report, and on any Report Response(s) and Report Reply(ies) submitted.

B. Determination after a Hearing

If a Hearing is held, then after the Hearing is complete, the Decisionmaker will make a determination regarding the alleged sex-based harassment, including whether the respondent engaged in prohibited sex-based harassment, (a "Determination") based on the relevant evidence gathered by the Investigator, the Investigation Report, and the relevant evidence offered at the Hearing.

C. Burden of Proof and Reaching a Determination

To reach their Determination, the Decisionmaker:

1. Must apply the **“preponderance of the evidence” standard of proof**. Under the preponderance of the evidence standard, a fact is considered proven when the evidence convinces the Decisionmaker that there is a greater than 50% chance that the fact is true.
2. Must objectively evaluate all evidence made available to the Decisionmaker that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence.
3. Must evaluate the relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded under the applicable standard of proof by the evidence that sex-based harassment occurred, whatever the quantity of the evidence is, the Decisionmaker must not determine that sex-based harassment occurred.
4. Must not make credibility determinations based solely on an individual’s status as a complainant, respondent, or witness.

D. Written Decision

1. The Decisionmaker shall state and explain their Determination in a written decision (the “Decision”). The Decision must include, at a minimum:
 - (i) A description of the alleged sex-based harassment presented to the Decisionmaker for determination;
 - (ii) A description of the procedural steps taken from delivery of the Investigation Report through the Determination, including any notifications to the parties and any meetings, conferences, and hearings held;
 - (iii) Information about the policies and procedures the Decisionmaker used to evaluate the allegations;
 - (iv) The Decisionmaker’s evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred and whether the respondent engaged in sex-based harassment; and
 - (v) The procedures and permissible bases for a party to appeal the Determination.

2. When the Decisionmaker finds that sex-based harassment occurred, the Decision must also include a discussion of any disciplinary sanctions the University will impose on the respondent and whether remedies will be provided by the University to the complainant (and, to the extent appropriate, other individuals identified by the University to be experiencing the effects of the sex-based harassment).

(i) With respect to disciplinary sanctions, the Title IX Coordinator (if a different individual than the Decisionmaker) will work with the Decisionmaker to ensure that:

(a) If the respondent is an employee, the decision on disciplinary sanctions is made in consultation with the University Human Resources Department and/or the respondent's Vice President (as the Title IX Coordinator deems appropriate).

(b) If the respondent is a student, the decision on disciplinary sanctions is made in consultation with the University's Office of the Dean of Students.

(ii) With respect to remedies, the Title IX Coordinator (if a different individual than the Decisionmaker) will work with the Decisionmaker to determine what may be appropriate. For a student, the decision on such remedies may be made in consultation with the University's Office of the Dean of Students. For an employee, the decision on such remedies may be made in consultation with the University Human Resources Department and/or the employee's Vice President.

3. Copies of the parties' Report Responses and Report Replies (if any) must be appended to the Decision. The Investigation Report, or any parts thereof, or any other appropriate document(s) may be appended to the Decision at the Decisionmaker's discretion.

4. The Decision and appendices must be issued to all parties and their Advisors simultaneously and provided to the Title IX Coordinator as soon as practicable.

E. Disciplinary Sanctions

1. Students

(i) In the event a student-respondent is determined to have engaged in sex-based harassment by a preponderance of the

evidence, disciplinary sanctions may be imposed. Disciplinary sanctions for student-respondents are designed to promote the University's educational mission, safety of the University community, and to deter students from behavior that violates the University's prohibition on sex-based harassment. Some sex-based harassment may be so harmful or disruptive to the University community or to the educational process that it will necessitate the imposition of more severe disciplinary sanctions. More than one disciplinary sanction may be imposed as part of the resolution of any one complaint.

The following factors are generally considered when determining disciplinary sanctions after a particular determination of misconduct:

- The nature of the sex-based harassment committed;
- Prior findings of responsibility and disciplinary sanction(s);
- Mitigating circumstances surrounding the sex-based harassment;
- The respondent's motivation(s) for engaging in the sex-based harassment;
- Impact of the sex-based harassment;
- Disciplinary sanctions that have been imposed in similar cases in the past;
- The developmental and educational impact on the respondent; and
- The overall impact on the University community.

(ii) Possible disciplinary sanctions that may be imposed on a student-respondent determined to have engaged in sex-based harassment include:

- (a) Administrative Sanctions, such as:
 - Written warning
 - Disciplinary probation
 - Loss of privilege(s), such as the use of services, participation in a program, event, or activity for a specified period, or removal from an appointed position of authority
 - No Contact Order
 - Restitution
 - Loss of recognized student organization/club status
- (b) University Housing Sanctions, such as:
 - Loss of guest privileges
 - Housing reassignment
 - University Housing probation

- University Housing suspension
 - University Housing expulsion
- (c) Educational/Developmental Sanctions, such as:
- Educational activities, such as programs and assignments designed to increase awareness and education about the impact of sex-based harassment on self and community
 - Recommendation for assessment to provide a structured opportunity to assess individual behavior and identify potential strategies to manage emotions/conflict or risk
- (d) Elevated Sanctions, such as:
- University suspension
 - University dismissal

Additional information about each type of disciplinary sanction is provided to students in the University's Student Handbook, published each academic year.

2. Employees

(i) In the event an employee-respondent is determined to have engaged in sex-based harassment, disciplinary sanctions may be imposed. Disciplinary sanctions for employee respondents are designed to ensure future compliance with University policy, deter future misconduct, and ensure a civil and safe workplace free of discrimination. More than one disciplinary sanction may be imposed as part of the resolution of any one complaint.

(ii) Possible disciplinary sanctions that may be imposed on an employee-respondent determined to have engaged in sex-based harassment include:

- (a) Verbal warning
- (b) Written reprimand
- (c) Suspension
- (d) Termination of employment

F. Finality of Determination and Disciplinary Sanctions

1. A Determination and/or decision on disciplinary sanctions becomes “final” either on the date that the Appeal Decisionmaker provides the parties with the Appeal Decision, if an appeal is filed (see below); or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.
2. Once final, the Title IX Coordinator will coordinate the provision and implementation of remedies (if any), the imposition of disciplinary sanctions on the respondent (if any) that survived the appeal process, and corrective action as appropriate.
 - (i) If the respondent is an employee, the Title IX Coordinator may inform the respondent’s supervisor of the final finding(s) of sex-based harassment and/or of the disciplinary sanctions, if the Title IX Coordinator believes such notice to be appropriate.
 - (ii) The Title IX Coordinator may inform any employee(s) necessary of remedies in order to implement them.
3. Once a Determination that a respondent has engaged in sex-based harassment is final, copies of the Investigation Report and the Decision shall be added to the respondent’s University personnel file or student file.

XII. Voluntary Withdrawal of a Complaint or Allegations Therein

A. Complainant’s Right to Withdraw

At any point in this resolution process before the start of the Determination Stage described in Section XI, a complainant may voluntarily withdraw their complaint or any of the allegations therein. In order to make such a voluntary withdrawal, the complainant must notify the Title IX Coordinator, preferably in writing, that they wish to withdraw the entire complaint or some specifically identified allegations in the complaint (a “Notification of Withdrawal”). If the complainant does not make their voluntary withdrawal in writing in the first instance, the Title IX Coordinator must obtain the Notification of Withdrawal in writing before the withdrawal can be considered.

B. Title IX Coordinator’s Determination in Response to Voluntary Withdrawal

1. Upon receipt of a Notification of Withdrawal that covers an entire complaint, the Title IX Coordinator will determine, in accordance with Section VI.B.1, whether to initiate a new complaint to replace the one withdrawn and continue the resolution process.

(i) If the Title IX Coordinator declines to initiate a new complaint, the Title IX Coordinator will dismiss the complaint in accordance with Section XIII.

(ii) If the Title IX Coordinator decides to initiate a new complaint and continue the resolution process despite the complainant's withdrawal, the Title IX Coordinator will (a) communicate in writing with the complainant about that chosen course of action, and (b) instruct that the resolution process proceed as if the Title IX Coordinator had initiated the complaint in the original instance.

2. Upon receipt of a Notification of Withdrawal that covers some, but not all, of the allegations in a complaint, the Title IX Coordinator will determine whether, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint would constitute sex-based harassment if proven.

(i) If the Title IX Coordinator determines that the conduct that remains alleged in the complaint would constitute sex-based harassment if proven, the Title IX Coordinator will instruct the resolution process to proceed in consideration of only the remaining allegations.

(ii) If the Title IX Coordinator determines that the conduct that remains alleged in the complaint would not constitute sex-based harassment even if proven, the Title IX Coordinator will determine, in accordance with Section VI.B.1, whether to initiate a new complaint and continue the resolution process.

(a) If the Title IX Coordinator declines to initiate a new complaint, the Title IX Coordinator will dismiss the complaint in accordance with Section XIII.

(b) If the Title IX Coordinator decides to initiate a new complaint and continue the resolution process despite the complainant's withdrawal, the Title IX Coordinator will (1) communicate in writing with the complainant about that chosen course of action, and (2) instruct that the resolution process proceed as if the Title IX Coordinator had initiated the complaint in the original instance.

XIII. Dismissal of a Complaint

A. The Title IX Coordinator may dismiss a complaint of sex-based harassment made through these Grievance Procedures for any of the following reasons:

- (1) The University is unable to identify the respondent after taking reasonable steps to do so.
- (2) The respondent is not participating in the University's education program or activity and is not an employee.
- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint under Section XII.B, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under Title IX or the Anti-Sex Discrimination (Title IX) Policy even if proven.
- (4) The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex-based harassment under Title IX or the Anti-Sex Discrimination (Title IX) Policy. Prior to dismissal of a complaint for this reason, the Title IX Coordinator must make reasonable efforts to clarify the allegations with the complainant.

In determining whether to exercise their discretion to dismiss a complaint under this Section, the Title IX Coordinator may consult with the Investigator, any appropriate employee(s), or legal counsel.

B. Upon dismissal of a complaint (a "Dismissal"), the Title IX Coordinator will promptly provide a written notification of the basis for the Dismissal (a "Notification of Dismissal") to the complainant and their Advisor (if any). If the Dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will provide the Notification of Dismissal simultaneously to all parties and their Advisors. The Notification of Dismissal will include information about how a party may appeal the Dismissal.

C. Appeals of the Dismissal of a complaint will be conducted in accordance with Section XIV.

D. In the event of a Dismissal pursuant to this Section, the Title IX Coordinator will:

- (1) Offer supportive measures to the complainant as appropriate under Section XVII.
- (2) For a Dismissal under subparagraph A(3) or A(4) of this Section in which the respondent has been notified of the allegations in the

complaint, offer supportive measures to the respondent as appropriate under Section XVII.

- (3) Take any other actions necessary corrective actions and take steps to close out the proceedings.

XIV. Appeal Stage

A. Any party may appeal from a Dismissal of a complaint or from a Determination or disciplinary sanction on any of the following bases applicable:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the Dismissal or Determination was made;
- (3) The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome; and
- (4) The disciplinary sanction(s) imposed is substantially disproportionate to the severity of the sex-based harassment for which the respondent was determined to be responsible.

B. A party may initiate an appeal on one or more of those grounds by submitting a written request for appeal ("Request for Appeal") to the Title IX Coordinator.

C. For an appeal from a Dismissal, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Notice of Dismissal. For an appeal from a Determination or disciplinary sanction, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Decision.

D. An Appeal Decisionmaker will be appointed by the Title IX Coordinator for purposes of deciding the requested appeal. The Appeal Decisionmaker must be someone other than the Title IX Coordinator, an Investigator who worked on the Evaluation or investigation, or the original Decisionmaker.

E. The Appeal Decisionmaker will determine if the Request for Appeal meets any the permissible grounds for appeal, and all parties and Advisors will be notified simultaneously in writing of that determination and the underlying rationale (the "Notice of Appeal"). In the event an appeal has been requested before a Notice of Allegations has been provided to all parties, the Notice of Appeal shall include a

notice of the allegations in the complaint consistent with the Notice of Allegations requirements.

F. If the Request for Appeal does not meet any of the permissible grounds, the Notice of Appeal will inform the parties and their Advisors that the appeal will be dismissed. The Appeal Decisionmaker will inform the Title IX Coordinator of the dismissal of the appeal so the Title IX Coordinator can take all appropriate next steps under these Grievance Procedures.

G. If the Request for Appeal does meet one or more of the grounds, each party will have an opportunity to submit a written statement to the Appeal Decisionmaker in support of or challenging the Dismissal, Determination, or disciplinary sanction being appealed (an "Appeal Statement"). In the Notice of Appeal, the Appeal Decisionmaker will explain the submission process and set the due date for the parties' Appeal Statements, which date will be no less than ten (10) business days from the date of delivery of the Notice of Appeal. No party is required to submit an Appeal Statement, and there is no required format other than that the Appeal Decisionmaker must be able to read it.

H. The Appeal Decisionmaker will collect any additional information needed, at their discretion, and, based on the additional information, all documentation related to the relevant ground(s) for appeal (including information from the Hearing if appropriate), and the Appeal Statements, will render a decision on the appeal.

I. The decision on the appeal will be sent, in writing, (the "Appeal Decision") to all parties and their Advisors simultaneously, including a rationale for the decision. A copy of the Appeal Decision shall be shared with the Title IX Coordinator as soon as practicable.

J. In the event multiple parties file Requests for Appeal, they may be consolidated into a single appeal process and determined by a single Appeal Decisionmaker, at the Title IX Coordinator's discretion.

K. Any disciplinary sanctions imposed on a respondent will be stayed during the appeal process.

L. With respect to appeals from Determinations and disciplinary sanctions:

- (1) Decisions on appeal are to be deferential to the original determination, making changes to the findings and/or outcome only when there was clear error and compelling justification to make a change.
- (2) The appeal process is not intended to provide for a full re-hearing of the allegations of a complaint. In most cases, an appeal is confined to a review of the written documentation or record of the Investigation

Report, Hearing (if any), Decision, and pertinent documentation regarding the specific ground(s) for the appeal.

- (3) An appeal is not an opportunity for the Appeal Decisionmaker to substitute their judgment for that of the original Decisionmaker.

M. An appeal granted on grounds of new evidence should normally be remanded to the original Investigator and/or Decisionmaker for reconsideration. Appeals granted on other grounds may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal by the Appeal Decisionmaker.

N. Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a responsibility determination or disciplinary sanction is changed based on an appeal (except in the case of a new Investigation, Determination, or Hearing).

XV. Informal Resolution

In lieu of resolving a complaint through these Grievance Procedures, the University may elect to offer, and, if so, the parties may volunteer to participate in, an informal resolution process under applicable University procedures.

XVI. Grievance Process for Resolution of Formal Complaints of Sexual Harassment Occurring Pre-August 1, 2024

A. Scope and Application

This Section XVI of these Grievance Procedures applies to all, and only to all, complaints of conduct alleged to violate the University's prohibition on sex-based harassment where:

- (1) Such conduct would constitute Sexual Harassment if proven;
- (2) Such conduct is alleged to have occurred:
 - (i) Prior to August 1, 2024,
 - (ii) Entirely within the United States, and
 - (iii) In an education program or activity (as defined below); and
- (3) The complainant is, as of the time of filing a Formal Complaint (as defined below), currently participating or attempting to participate in an education program or activity (as defined below).

B. Additional Definitions

The definitions provided in this paragraph B of Section XVI apply solely for purposes of applying, interpreting, and implementing the grievance process set forth in this Section XVI. To the extent a definition in this paragraph B, or elsewhere in this Section XVI, differs from the definition provided for the same term in another section of these Grievance Procedures or in the Anti-Sex Discrimination (Title IX) Policy, the definition in this Section XVI (including in this paragraph B) shall control for purposes of interpreting and implementing this Section XVI.

- (1) “Education program or activity” means the locations, events, or circumstances over which the University exercised substantial control over both the respondent, and the context in which the Sexual Harassment is alleged to have occurred and includes any building owned or controlled by a student organization that is officially recognized by the University.
- (2) “Formal Complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a respondent and requesting that the University investigate the allegation of Sexual Harassment. As used in this definition, “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for such purpose by the University) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the individual filing the Formal Complaint.

C. Preliminary Procedures

1. Notification of Application of this Section XVI

If, during the course of or at the conclusion of the Evaluation of a complaint in accordance with Section VIII, it is determined by the Title IX Coordinator that this Section XVI applies, the Title IX Coordinator will notify the complainant in writing of such fact (a “Section 16 Notification”). A Section 16 Notification must include:

- (i) A copy of the grievance process set forth in this Section XVI if not previously provided.
- (ii) A statement that the grievance process under this Section XVI is different than the procedures otherwise set forth in these Grievance Procedures, including that a properly filed Formal Complaint is necessary to initiate this grievance process and/or any informal resolution process.

- (iii) An explanation of the available means by which a Formal Complaint may be filed with the Title IX Coordinator (including in person, by mail, or by electronic mail, using the contact information for the Title IX Coordinator posted by the University).

2. Receipt of a Formal Complaint from the Complainant

In the event the complainant elects to file a Formal Complaint and pursue the grievance process available under this Section XVI, the Title IX Coordinator will initiate the grievance process as described in paragraphs D – J of this Section.

3. Receipt of a Request from the Complainant for No Formal Complaint

i. Title IX Coordinator to Determine Whether to Bring a Formal Complaint

(a) If the complainant expresses a desire not to proceed with a Formal Complaint, the Title IX Coordinator will determine, based on the available information, whether a Formal Complaint and the grievance process under this Section XVI should nonetheless go forward.

(b) In making this determination, the Title IX Coordinator will consider, among other factors, whether the complainant has requested confidentiality; whether the complainant is willing to participate in an investigation or Hearing; the severity and impact of the alleged Sexual Harassment; the respective ages of the parties; whether the complainant is a minor under the age of 18; whether the respondent has admitted to the Sexual Harassment; whether the respondent has a pattern of committing sex discrimination; the existence of independent evidence; and the extent of prior remedial methods taken with the respondent.

ii. If the Title IX Coordinator Decides to Bring a Formal Complaint

(a) Where the Title IX Coordinator determines that it is appropriate for them to sign a Formal Complaint and pursue this grievance process against the complainant's desires, the Title IX Coordinator will communicate in writing with the complainant about that chosen course of action.

(b) Upon drafting and signing the Formal Complaint, the Title IX Coordinator shall initiate the grievance process as described in paragraphs D – J below.

(c) Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a “complainant” or otherwise a “party” for purposes of the grievance process.

iii. If the Title IX Coordinator Declines to Bring a Formal Complaint

Where the Title IX Coordinator elects not to sign a Formal Complaint and pursue this grievance process against the complainant’s desires, the Title IX Coordinator shall instigate corrective action, as appropriate, and the relevant provisions of the Response Procedures shall continue to apply.

4. Consolidation of Formal Complaints

(i) For purposes of applying the grievance process described in this Section XVI, the Title IX Coordinator may consolidate multiple Formal Complaints as to allegations of 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 Sexual Harassment arise out of the same facts or circumstances.

(ii) Where a grievance process involves more than one complainant or more than one respondent, references in this Section XVI to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

D. Investigation Stage

1. Assignment of Investigator

(i) As soon as reasonably practicable after receiving a Formal Complaint from the complainant or signing a Formal Complaint themselves, the Title IX Coordinator will assign an appropriate individual to serve as the Investigator for the Formal Complaint. The Investigator may be the same individual as the Title IX Coordinator.

(ii) If, at any time during the course of the Investigation Stage, an assigned individual must leave the Investigator role, the Title IX Coordinator will assign another appropriate individual to serve as the

Investigator and continue the investigation process as promptly as reasonably possible.

2. Notice of Allegations

(i) As soon as reasonably practicable after being assigned to a new Formal Complaint, the Investigator will issue a written notice of the investigation and allegations (a "Notice of Allegations") to all known parties.

(ii) The Notice of Allegations will include:

- (a) The name and contact details of the Investigator.
- (b) Notice of these Grievance Procedures (especially this Section XVI), and the Anti-Sex Discrimination (Title IX) Policy.
- (c) A statement of the allegations of Sexual Harassment underlying the Formal Complaint, including, to the extent such details are known at the time the Notice of Allegations is issued:
 - (1) The identities of the parties involved in conduct allegedly constituting Sexual Harassment; and
 - (2) The date(s) and location(s) of the conduct allegedly constituting Sexual Harassment.
- (d) A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- (e) A statement that the parties may each have an Advisor of their choice, who may be, but is not required to be, an attorney.
- (f) A statement that the parties will have an equal opportunity to inspect and review evidence obtained as part of the investigation process that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that

each party can meaningfully respond to the evidence prior to conclusion of the Investigation Stage.

- (g) A statement that retaliation is prohibited.
- (h) Notice that the University prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

(iii) The Notice of Allegations will be amended if and as necessary during the investigation process should more information become available regarding the addition or dismissal of various allegations.

3. Investigation Process for a Formal Complaint

i. General Principles of the Investigation Process

(a) All investigations are to be thorough, reliable, impartial, prompt, and fair.

(b) The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not the parties. However, the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process under this Section XVI.

(c) All parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence to the Investigator.

(d) The University will not restrict the ability of any party to discuss the allegations under investigation or to gather and present relevant evidence.

(e) The Investigator will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of each hearing, investigative interview, or other meeting conducted during the investigation process, with sufficient time for the party to prepare to participate.

(f) All parties will have the same opportunity to have an Advisor present at any hearing, investigative interview, or other meeting conducted during the investigation process.

(g) The Investigator may not gather evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

(h) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be gathered by the Investigator, 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.

ii. Steps in the Investigation Process

(a) The Investigator will typically take the following steps to compile as much relevant inculpatory and exculpatory evidence as reasonably possible during the investigation process:

- (1) Commence the process by identifying issues and developing a strategic investigation plan (subject to update as evidence is gathered), including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and parties.
- (2) Ask the parties to identify any witness(es) and/or other evidence they each wish to present to the Investigator for consideration as part of the investigation process.
- (3) Interview all reasonably available, relevant witnesses and the parties and conduct follow-up interviews as necessary.
- (4) Review all documentary or physical evidence provided by the parties and/or witnesses.

- (5) Request, obtain, and review documents or other records or physical items that the Investigator reasonably believes may provide relevant evidence.
- (6) Complete the gathering of evidence promptly and without unreasonable deviation from the intended timeline.
- (7) Amend the Notice of Allegations as warranted by the investigation process and revise the allegations therein as appropriate based on testamentary and documentary evidence obtained.

There is no strict requirement that every step listed above must be taken, that the steps must be taken in the order presented, or that no other steps may be taken. The exact steps taken in any investigation process will depend upon the specific circumstances of the Formal Complaint.

(b) After completing the gathering of evidence, the Investigator must provide each party, and the party's Advisor (if any), with access to all relevant evidence compiled by the Investigator from all sources, including both inculpatory and exculpatory evidence, so that the parties may inspect and review such relevant evidence.

(c) After receiving such access to the relevant evidence, the parties will have ten (10) business days to submit a written response about the relevant evidence to the Investigator, which the Investigator will consider prior to completion of the Investigation Report (see below). No party is required to submit a written response about the relevant evidence, and there is no required format other than that the Investigator must be able to read it.

4. The Investigation Report

(i) After receiving the written responses (if any) about the relevant evidence from the parties, the Investigator must create an investigation report ("Investigation Report") that:

- (a) Explains the investigation process to date, including the procedural steps taken since receipt of the Formal Complaint, including any notifications to the parties,

interviews with parties and witnesses, site visits, and methods used to gather other evidence; and

(b) Fairly summarizes all the relevant evidence gathered.

(ii) Copies of the parties' written responses to the evidence must be appended to the Investigation Report. Additional appendices, including (a) relevant physical or documentary evidence, and (b) transcripts or summaries/outlines/write-ups of all interviews, must be attached to the Investigation Report if reasonably practicable. If it is not reasonably practicable to attach all such additional appendices (e.g., because the volume of such material would make the Investigation Report too difficult to share with the parties), some portion or all the relevant physical or documentary evidence and transcripts or summaries/outlines/write-ups of all interviews may be collected separately from the Investigation Report, but they must be organized in such a way that they may be clearly identified and located using textual references in the Investigation Report.

(iii) The Investigation Report must include no credibility determinations, conclusions, policy analysis, or recommendations.

(iv) The complete Investigation Report must be issued to all parties and their Advisors simultaneously. The complete Investigation Report should also be provided to the Title IX Coordinator (if different than the Investigator) as soon as reasonably practicable thereafter.

(v) After the Investigation Report has been delivered, the parties will have ten (10) business days to submit a written response about the Investigation Report to the Title IX Coordinator. No party is required to submit a written response about the Investigation Report, and there is no required format other than that the Title IX Coordinator must be able to read it.

E. Hearing Stage

1. Assignment of Decisionmaker

(i) If the Title IX Coordinator has not already done so, then as soon as reasonably practicable after receiving the Investigation Report, the Title IX Coordinator will assign an appropriate individual to serve as the Decisionmaker for the Formal Complaint. The Decisionmaker may not be the same individual as the Title IX Coordinator or the Investigator.

(ii) The Title IX Coordinator will forward the parties' written responses about the Investigation Report to the Decisionmaker as soon as practicable upon receipt.

(iii) As soon as reasonably practicable after being assigned or after issuance of the Investigation Report, whichever is later, the Decisionmaker must contact the parties and their Advisors to initiate the process for holding a live hearing on the relevant evidence (the "Hearing").

2. General Principles of the Hearing Process

(i) All relevant evidence will be made available at the Hearing to give each party equal opportunity to refer to such evidence during the Hearing, including for purposes of cross-examination.

(ii) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will be excluded by the Decisionmaker, 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.

(iii) All parties will be required to have an Advisor present at the Hearing for any questions the party may desire to have asked of another party or witness. In the event a party cannot arrange for an Advisor of their choice to participate in the Hearing, the University will appoint an appropriate individual to serve as that party's Advisor for the duration of the Hearing process. Each party must have an Advisor present at the Hearing. There are no exceptions.

(iv) At the Hearing, the Decisionmaker will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the Hearing must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally.

(v) At the request of any party, the University will provide for the Hearing to occur with the parties located in separate rooms with technology enabling the Decisionmaker and parties to simultaneously see and hear the party or the witness answering questions.

(vi) Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other.

(vii) The Decisionmaker must not require, allow, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

3. Pre-Hearing Procedures

(i) To initiate the Hearing process, the Decisionmaker must schedule a pre-hearing conference (the "Pre-hearing Conference") with all parties and their Advisors for a mutually acceptable date not less than ten (10) business days after submission of the Investigation Report. The Pre-hearing Conference may be held in person or virtually, at the Decisionmaker's discretion.

(ii) At the Pre-hearing Conference, the attendees must discuss at least: (a) whether the Hearing will be held virtually or in person (and, if so, where); (b) what witnesses, if any, each party and the Decisionmaker want to call at the Hearing; (c) the process for questioning and cross-examination by the Advisors; (d) whether the parties will be allotted time (and how much) to make opening and/or closing statements to the Decisionmaker; (e) what technology will be available (if any) for sharing documentary or physical evidence among the necessary Hearing attendees; and (f) the University's Rules of Decorum for Hearings. The attendees may discuss any other topics the Decisionmaker believes appropriate.

(iii) No later than five (5) business days after the Pre-hearing Conference, the Decisionmaker shall circulate to the parties and their Advisors a set of minutes or other appropriate memorandum reflecting what was discussed and decided during the Pre-hearing Conference.

(iv) Either before or after the Pre-hearing Conference, the Decisionmaker must schedule a date or series of dates and length of time for the Hearing, which must not start less than ten (10) business days after the Pre-Hearing Conference.

(v) No less than ten (10) business days prior to the start of the Hearing, the Decisionmaker shall provide the parties and their

Advisors with a formal, written notice of the Hearing (a “Notice of Hearing”), which will contain:

- (a) The time, date, and location of the Hearing and a reminder that attendance is mandatory, superseding all other campus activities.
 - (b) The identification of any technology that will be used to facilitate the Hearing.
 - (c) Information on how the University anticipates recording the Hearing and on access to the recording for the parties after the Hearing.
 - (d) A statement that if any party or witness does not appear at the scheduled Hearing, the Hearing may be held in their absence, at the Decisionmaker’s discretion.
 - (e) A reminder to notify the Title IX Coordinator in advance of the Hearing if an Advisor must be appointed for a party.
 - (f) 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 five (5) business days prior to the Hearing.
 - (g) A copy of the University’s Rules of Decorum for Hearings and reminder that all Hearing attendees must abide by those Rules of Decorum.
 - (h) An overview of the procedures by which the Decisionmaker will run the Hearing.
 - (i) Information on appeals.
- (vi) Any party or other attendee that wishes to request any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing must do so at least five (5) business days prior to the Hearing or, in emergency situations, as soon as reasonably possible.

4. Hearing Procedures

- (i) The Decisionmaker has ultimate authority over proceedings during a Hearing, but they must exercise that authority in a way that

is equitable to all parties and must enforce the University's Rules of Decorum.

(ii) All questioning permitted to be done "by the parties" under these Hearing procedures must be conducted by the parties' respective Advisors on behalf of the parties and never by the parties personally.

(iii) During the course of a Hearing, the following events will occur, in whatever order the Decisionmaker deems most appropriate:

(a) The Investigator presents the Investigation Report:

(1) The Investigator will present a summary of the Investigation Report and will be subject to questioning by the Decisionmaker and by the parties.

(2) Neither the parties nor the Decisionmaker may ask the Investigator their opinion(s) on credibility, recommended findings, or determinations, and the Investigator and parties must refrain from discussion of or questions about these assessments. If such information is introduced, the Decisionmaker must disregard it.

(b) Any witness(es) called by a party or the Decisionmaker must submit to questioning. One at a time (if more than one is being called), each witness will submit to questioning by the Decisionmaker and then by the parties.

(c) Each party will be given the opportunity to provide relevant evidence, including both testimony and documentary or physical, in turn, beginning with the complainant.

(d) Each party also will submit to questioning by the Decisionmaker and then by the other party (*i.e.*, "cross-examination").

(iv) All questions asked by the parties (through their Advisors) are subject to a relevance determination by the Decisionmaker. The Advisor will pose the proposed question orally, pause to allow the

Decisionmaker to consider it, and determine whether the question will be permitted, disallowed, or rephrased.

- (a) If a question is permitted, the individual to whom the question was directed will be allowed to answer.
- (b) If a question is disallowed, the Decisionmaker will explain their decision to exclude the question as not relevant.
- (c) If the Decisionmaker asks the Advisor to rephrase the question, the Decisionmaker will explain why and then allow the Advisor to rephrase, after which the Decisionmaker will conduct a new relevance determination.

(v) The Decisionmaker will limit or disallow questions on the basis that they are not relevant, unduly repetitious (and thus not relevant), or abusive.

(vi) The Decisionmaker may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

(vii) At the Decisionmaker's request, an appropriate employee may participate in the Hearing solely to assist with logistics, technology, organizing witness participation, or similar services.

(viii) In the event a Hearing runs longer than anticipated, the Decisionmaker has the authority to adjourn the Hearing at an appropriate time on the originally scheduled date and work with the parties to schedule a continuation of the Hearing on a later date.

(ix) Hearings are recorded by the University for purposes of recordkeeping and review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted. At the start of the Hearing, or at the start of each day of the Hearing if it lasts multiple days, the Decisionmaker must inform the parties how the Hearing is being recorded at that time.

F. Determination Stage

1. The Determination

(i) After the Hearing is complete, the Decisionmaker will make a determination regarding the respondent's responsibility for any Sexual Harassment that was proven to have occurred (a "Determination") based on the relevant evidence gathered by the Investigator, the Investigation Report (and the parties' written responses thereto), and the relevant evidence offered at the Hearing.

(ii) To reach the Determination, **the "preponderance of the evidence standard" must be applied.** Under the preponderance of the evidence standard, a fact is considered proven when the relevant evidence convinces the Decisionmaker that there is a greater than 50% chance that the fact is true.

(iii) The Determination must be based on an objective evaluation of all relevant evidence made available to the Decisionmaker, including both inculpatory and exculpatory evidence.

(iv) Credibility determinations may not be based on an individual's status as a complainant, respondent, or witness.

2. The Decision

(i) The Decisionmaker shall state and explain their Determination in a written decision (the "Decision"). The Decision must include, at a minimum:

- (a) Identification of the allegations potentially constituting Sexual Harassment that were presented to the Decisionmaker for determination;
- (b) A description of the procedural steps taken from receipt of the Formal Complaint through the Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (c) Findings of fact supporting the Determination;
- (d) Conclusions regarding the application of the Anti-Sex Discrimination (Title IX) Policy to the facts;

- (e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
 - (f) The procedures and permissible bases for a party to appeal the Determination.
- (ii) In the event the Decisionmaker's determines that the respondent is responsible for Sexual Harassment:
- (a) The Decisionmaker shall confer with either the University's Human Resources Department or Office of the Dean of Students, as appropriate, to determine what disciplinary sanctions should be imposed; and
 - (b) The Decisionmaker shall confer with the Title IX Coordinator to determine what remedies, if any, should be provided to the complainant.
- (iii) Copies of the parties' written responses to the Investigation Report (if any) must be appended to the Decision. The Investigation Report, or any parts thereof, or any other appropriate document(s) may be appended to the Decision at the Decisionmaker's discretion.
- (iv) The finalized Decision and appendices must be issued to all parties and their Advisors simultaneously and provided to the Title IX Coordinator as soon as practicable.

G. Voluntary Withdrawal of a Formal Complaint or Allegations Therein

1. Complainant's Right to Withdraw

At any point in this grievance process before the start of the Determination Stage described in paragraph F of this Section XVI, a complainant may voluntarily withdraw their Formal Complaint or any of the allegations therein. In order to make such a voluntary withdrawal, the complainant must notify the Title IX Coordinator in writing that they wish to withdraw the entire Formal Complaint or some specifically identified allegations in the Formal Complaint (a "Notification of Withdrawal").

2. Title IX Coordinator's Determination in Response to Voluntary Withdrawal

(i) Upon receipt of a Notification of Withdrawal that covers an entire Formal Complaint, the Title IX Coordinator will determine, based on the available information and in consideration of the factors set forth in subparagraph C.3.i(b) of this Section XVI, whether the grievance process under this Section XVI should nonetheless go forward.

(a) If the Title IX Coordinator determines that the grievance process should not continue, the Title IX Coordinator will dismiss the Formal Complaint in accordance with paragraph H below.

(b) If the Title IX Coordinator determines that it is appropriate for the grievance process to go forward despite the complainant's withdrawal, the Title IX Coordinator will (1) communicate in writing with the complainant about that chosen course of action, and (2) instruct that the grievance process proceed as if the Title IX Coordinator had signed the Formal Complaint in the original instance.

(ii) Upon receipt of a Notification of Withdrawal that covers only some, but not all, of the allegations in a Formal Complaint, the Title IX Coordinator will determine whether, without the complainant's withdrawn allegations, the conduct that remains alleged in the Formal Complaint would constitute Sexual Harassment even if proven.

(a) If the Title IX Coordinator determines that the conduct that remains alleged in the Formal Complaint would constitute Sexual Harassment if proven, the Title IX Coordinator will instruct the grievance process to proceed in consideration of only the remaining allegations.

(b) If the Title IX Coordinator determines that the conduct that remains alleged in the Formal Complaint would not constitute Sexual Harassment even if proven, the Title IX Coordinator will determine, based on the available information and in consideration of the factors set forth in subparagraph C.3.i(b) of this Section XVI, whether the grievance process under this Section XVI should nonetheless go forward.

(1) If the Title IX Coordinator determines that the grievance process should not continue, the Title IX

Coordinator will dismiss the Formal Complaint in accordance with paragraph H below.

(2) If the Title IX Coordinator determines that it is appropriate for the grievance process to go forward despite the complainant's withdrawal, the Title IX Coordinator will (I) communicate in writing with the complainant about that chosen course of action, and (II) instruct that the grievance process proceed as if the Title IX Coordinator had signed the Formal Complaint in the original instance.

H. Dismissal of a Formal Complaint

1. The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation process or hearing process:

- (i) The complainant voluntarily withdraws any or all of the allegations in the Formal Complaint;
- (ii) The respondent is not participating in the University's education program or activity and is not an employee; or
- (iii) Specific circumstances prevent the University from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations therein.

In determining whether to exercise their discretion to dismiss a Formal Complaint, the Title IX Coordinator may consult with the Investigator, any appropriate employee(s), or legal counsel.

2. Upon dismissal of a Formal Complaint (a "Dismissal"), the Title IX Coordinator will promptly provide a written notification of the basis for the Dismissal (a "Notification of Dismissal") simultaneously to all parties and their Advisors. The Notification of Dismissal will include information about how a party may appeal the Dismissal.

3. Appeals of the Dismissal of a Formal Complaint will be conducted in accordance with paragraph I of this Section XVI.

I. Appeal Stage

1. Any party may appeal from a Dismissal of a complaint or from a Determination or disciplinary sanction on any of the following bases applicable:

- (i) Procedural irregularity that affected the outcome of the matter;
- (ii) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- (iii) The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and
- (iv) The disciplinary sanction(s) imposed is substantially disproportionate to the severity of the Sexual Harassment for which the respondent was determined to be responsible.

2. A party may initiate an appeal on one or more of those grounds by submitting a written request for appeal ("Request for Appeal") to the Title IX Coordinator.

3. For an appeal from a Dismissal, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Notice of Dismissal. For an appeal from a Determination or disciplinary sanction, the Request for Appeal must be submitted to the Title IX Coordinator within ten (10) business days of delivery of the Decision.

4. An Appeal Decisionmaker will be appointed by the Title IX Coordinator for purposes of deciding the requested appeal. The Appeal Decisionmaker must be someone other than the Title IX Coordinator, an Investigator who worked on the Evaluation or investigation, or the original Decisionmaker.

5. In all further respects, appeals from a Dismissal of a Formal Complaint, Determination, or disciplinary sanction will be conducted in accordance with Section XIV.

J. Informal Resolution

In lieu of resolving a Formal Complaint through the grievance process described in paragraphs D – F of this Section XVI, the University may elect to offer, and, if so, the parties may volunteer to participate in, an informal resolution process under Section XV.

K. Additional Provisions

Unless directly contradicted by another provision in this Section XVI, the provisions of Sections XVII, XVIII, XIX, XX, XXI, and XXII shall apply to the operation of the grievance process under this Section XVI.

XVII. Supportive Measures

A. In accordance with its Response Procedures, the University will offer and coordinate supportive measures, as appropriate, to the parties to provide support during the complaint resolution process under these Grievance Procedures.

B. If, during the course of a complaint resolution process under these Grievance Procedures, the Investigator or Decisionmaker comes to believe that changes or additions to the parties' supportive measures might be appropriate, they should inform the Title IX Coordinator so that the Title IX Coordinator can look into the matter.

C. If, during the course of a complaint resolution process under these Grievance Procedures, a party's circumstances change, they may seek additional or modified supportive measures or termination of any supportive measures applicable to them.

D. The offering, coordination, provision, denial, modification, or termination of supportive measures during the course of a complaint resolution process under these Grievance Procedures will be governed by the University's Response Procedures.

XVIII. Corrective Action

In the event the Decisionmaker determines that the respondent has engaged in prohibited sex-based harassment or a Dismissal, the Title IX Coordinator shall instigate corrective action, as appropriate. Corrective action may include, but not necessarily be limited to, notifying the University campus community of the Anti-Sex Discrimination (Title IX) Policy and associated procedures and additional trainings for employees and/or students.

XIX. Notices and Communications

A. The primary method by which the Title IX Coordinator, Investigator, Decisionmaker, and Appeal Decisionmaker (if any) will issue notices to and communicate with participants in the complaint resolution process will be via email addressed to the participants' respective University-issued email or designated accounts. The parties and Advisors are responsible for monitoring their email accounts to ensure they do not miss any notices or other communications related to these Grievance Procedures.

B. In the event a party, Advisor, or a witness is unable to receive notices, communications, or documents/files via email, they should contact the Title IX Coordinator, Investigator, Decisionmaker, or Appeal Decisionmaker (as applicable) as soon as possible so that alternative arrangements for the delivery of notices, communications, and/or documents/files, such as (but not limited to) delivery by U.S. Mail or in person, may be reached.

C. For purposes of setting due dates for party submissions (e.g., Requests for Appeal), once a notice or notification has been emailed (or mailed out or delivered in person if such arrangements have been made), the notice or notification will be presumptively deemed delivered.

D. The Title IX Coordinator, Investigator, Decisionmaker, and Appeal Decisionmaker (if any) prefer (but do not require) to receive communications and submissions via email. However, submissions may be delivered by any one or more of the following methods: (1) in person on campus (if the recipient is an employee); (2) by U.S. Mail or courier service addressed to the University campus (if the recipient is an employee) or other provided business address; or (3) via email addressed to the recipient's University-issued email or otherwise designated account.

E. Any party desiring to make a submission by U.S. Mail or courier service should attempt to ensure that the submission will be in the recipient's hand by the due date so as not to cause a delay in the resolution process. If actual delivery to the recipient by the due date is not possible, the party making the submission must ensure that the submission has a postmark no later than the due date and needs to otherwise inform the recipient that they should expect to receive the submission after the due date.

XX. Advisors

A. Right to Be Accompanied by a Chosen Advisor

1. Every party to a complaint resolution process under these Grievance Procedures has the right to be accompanied to any meeting, interview, hearing, or other proceeding by one Advisor of their choice.

2. A party's chosen Advisor may be, but is not required to be, an attorney. Whether or not the Advisor is an attorney, the Advisor may be the party's friend, mentor, or family member or any other individual selected by the party and willing to act in the role of the party's Advisor.

3. The University will not limit a party's choice of an Advisor. However, the University urges parties to consider any individual carefully before choosing them as an Advisor.

4. Except under the circumstances described in paragraph C of this Section:

- (i) A party has the right to choose not to be accompanied by any Advisor for any portion of, or the entire, complaint resolution process.
- (ii) The University cannot force any individual to serve as an Advisor. The parties are responsible for securing their chosen Advisor's agreement to serve.
- (iii) The University will not cover any costs associated with an Advisor's service under these Grievance Procedures (whether professional fees, expense reimbursements, or otherwise).

5. Each party will be asked to identify their chosen Advisor at the start of the Investigation Stage under these Grievance Procedures. If a party has not selected an Advisor at that time, they may inform the Title IX Coordinator later in the process once they have made their selection (if any).

6. The University may ask the parties to confirm their respective choice of Advisor in writing and to provide preferred contact details for such Advisor (an "Advisor Designation").

7. If the University deems it appropriate, the University may ask a party to sign a release under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) in order to lawfully share necessary education records with the Advisor during the complaint resolution process (a "FERPA Form").

8. A party has the right to change their Advisor at any time during the complaint resolution process but must notify the Title IX Coordinator of such change. Upon making such a change, the party may be asked to complete another Advisor Designation and/or FERPA Form.

B. Role of Advisors under These Grievance Procedures

1. The role of an Advisor under these Grievance Procedures is to provide support for their party during the course of the complaint resolution process.

- (i) Except as explained to the contrary in paragraph C of this Section, Advisors may not participate directly in the complaint resolution process and are not permitted to speak

substantively during investigative interviews or any Hearing (e.g., Advisors may not make objections, advocate a position, directly provide evidence, influence their party's responses, or unreasonably interrupt proceedings).

- (ii) Advisors are not meant to be “zealous advocates” for their parties, as may be the case for attorneys in legal proceedings (even if an Advisor is an attorney).
- (iii) An Advisor is allowed, and encouraged, to assist their party in preparing for any meeting, investigatory interview, or Hearing, and to speak privately with their party during breaks in any proceeding.
- (iv) Advisors are entitled to access relevant and not otherwise impermissible evidence gathered as explained in these Grievance Procedures.
- (v) An Advisor may, with their party's permission, assist in the preparation of any written submission by the party.
- (vi) Advisors are further encouraged to provide emotional support for their respective parties in addition to support directly related to the complaint resolution process.
- (vii) Advisors are required to follow all information security protocols imposed by the University to protect privacy and preserve confidentiality during the complaint resolution process.
- (viii) Advisors are required to follow the University's Rules of Decorum during any Hearing.
- (ix) Advisors are, generally, allowed to contact any Title IX Coordinator, Investigator, or Decisionmaker to ask questions or discuss matters (e.g., scheduling) not related to the substance of the complaint being resolved.
- (x) Advisors may not interfere with the University's efforts to conduct the complaint resolution process under these Grievance Procedures.
- (xi) An Advisor may not advise a party to give false information during the complaint resolution process.

2. The Title IX Coordinator, Investigator, or Decisionmaker (as applicable) may remove an Advisor from any proceeding if the Advisor engages in disruptive or hostile behavior or fails to follow these Grievance Procedures. The University reserves the right to bar completely an individual from serving as an Advisor if that individual's conduct is egregious enough to warrant such action.

C. Additional Considerations Regarding Advisors under Section XVI

1. Notwithstanding anything to the contrary in paragraph A of this Section XX, each party must have an Advisor present at a Hearing conducted under Section XVI.E. If a party does not have an Advisor of their choice for such a Hearing, the University will appoint an appropriate individual to accompany the party during the Hearing process under Section XVI as that party's Advisor. At any time during the Hearing process under Section XVI, the party may replace the University-appointed Advisor with an Advisor of the party's choice.

2. With respect to University-appointed Advisors, the University does not guarantee equal advisory rights, meaning that if one party has chosen an attorney to serve as their Advisor, and the other party does not choose an attorney or cannot afford an attorney, the University is not obligated to appoint an attorney to serve as Advisor for the other party.

3. Notwithstanding anything to the contrary in paragraph B of this Section XX, the parties' Advisors will be expected to participate in the questioning/cross-examination process during a Hearing under Section XVI as described in Section XVI.E.

XXI. Complaint Resolution Process Timeline

A. Proposed Timeline for Resolution of Complaints

1. The University will make every reasonable attempt to complete the major stages of the complaint resolution process under these Grievance Procedures within the following timeframes:

- Evaluation Stage – ten (10) business days
- Investigation State – forty-five (45) business days
- Hearing Stage (if any) – thirty-five (35) business days
- Determination Stage – forty (40) business days
- Appeal Stage (if any) – thirty (30) business days

This proposed timeline does not account for any attempt(s) that may be made to resolve a complaint through informal resolution in accordance with Section XV or Section XVI.J.

2. This proposed timeline anticipates all parties, Advisors, and witnesses reasonably cooperating with the Investigator and Decisionmaker in scheduling all meetings, interviews, and hearings. If a party, Advisor, or witness fails or refuses to cooperate and make themselves reasonably available to attend any necessary meetings, interviews, or hearings, the Investigator and/or Decisionmaker has the discretion to move forward with the complaint resolution process without that individual's attendance at the meeting, interview, or hearing. In the event the Investigator and/or Decisionmaker decides to move forward under such circumstances, the uncooperative party, Advisor, or witness will be notified in writing of same.

3. Ultimately, the length of the complaint resolution process will depend on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.¹

4. The University may undertake a temporary delay in a resolution process if circumstances—including but not limited to a request from law enforcement or a regulatory agency to delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions—so require.

5. The Title IX Coordinator, Investigator, and Decisionmaker (as applicable) will provide the parties and Advisors with written notice and updates on the progress and expected timeline of the Grievance Procedures, including the anticipated duration of and reason for any delays.

B. Extension of Due Dates

1. The University will entertain requests for reasonable extensions of the due dates for party submissions (e.g., a Request for Appeal). If a party wants to request any such extension, the party must do so in writing to the individual (i.e., the Title IX Coordinator, Investigator, Decisionmaker, or Appeal Decisionmaker) to whom the submission must be made. The written request for the extension should include the requested length of the extension and the reason(s) the extension should be granted. ***Requests for extensions should be made before the due date of the submission.***

2. Extensions will be considered on a case-by-case basis and granted for good cause.

¹ There may also be external factors over which the University has no control that may affect the length of the resolution process.

