

SEXUAL HARASSMENT AND SEXUAL MISCONDUCT POLICY

POLICY NUMBER: OED-3

APPLICABILITY: All members of the University Community

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RESPONSIBLE OFFICER: Title IX Coordinator

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I. SUMMARY OF POLICY

The University is committed to providing an environment free from discrimination, including discrimination on the basis of sex. Sexual harassment and sexual misconduct are considered forms of sex discrimination. The University will not tolerate any form of sexual harassment or sexual misconduct, including, but not limited to, sexual assault, sexual violence, sexual abuse, stalking, intimate partner violence, and nonconsensual sexual conduct.¹

The University encourages any individual who has been affected by sexual harassment or misconduct to immediately report the incident(s) giving rise to such concerns. This Policy provides several reporting options, which are outlined in Section VII below.

The University will respond promptly and equitably to all Reports of sexual harassment or misconduct and will take appropriate steps to eliminate any harassment or misconduct, prevent its recurrence, and address its effects. The University, as part of its response, will provide support and resources to any individual who reports an experience of sexual harassment or misconduct under this Policy.

The University has appointed a Title IX Coordinator to coordinate its compliance with Title IX, the federal law prohibiting sex discrimination at the University, and to serve as a resource to University Community members. For more information, please see the University's Title IX Resource Page, available at <http://www.drexel.edu/titleix>.

The University adheres to all federal, state, and local requirements for intervention, crime reporting, and privacy provisions related to sexual harassment and sexual misconduct. The University will record and report all relevant incidents in compliance with the Clery Act and the Campus SaVE Act.

II. PURPOSE

Drexel University seeks to foster a safe and healthy educational and employment environment built on mutual respect and trust. To further this mission, the University has adopted this Sexual harassment and sexual misconduct Policy (referred to herein as "Policy"), which is intended to guide all University Community members.

This Policy will:

- Define sexual harassment, sexual misconduct and other forms of prohibited conduct that violate our community standards;
- Identify campus and community resources and support options available for all members of the University Community;
- Identify the Title IX Coordinator, the University's Deputy Title IX Coordinators, and

¹ For information regarding the University's response to incidents of other forms of potential discrimination or harassment, including discrimination on the basis of sex or gender, please see the [Discrimination, Harassment, and Bias Incident Prevention Policy \(OED-1\)](#).

their roles and responsibilities;

- Provide information as to how to make a Report of sexual harassment or misconduct to the University or law enforcement; and
- Outline the University's procedures for evaluating and resolving all matters reported to the University.

III. SCOPE OF POLICY

This Policy applies to all University Community members, which includes all Drexel University students, employees (including faculty, professional staff, and employees covered under Collective Bargaining Agreements)², trustees, officers, applicants for admission or employment, visitors, and third parties doing business or providing services on campus, including vendors, independent contractors, and consultants.

All University Community members are responsible for their actions and behavior, whether on campus, in the surrounding community, or in another location. As such, this Policy applies to any alleged conduct that impacts the University Community and/or the University's educational programs or activities, wherever it occurs, including on campus, off campus, and online.³

IV. NOTICE OF NON-DISCRIMINATION

The University is committed to establishing and maintaining an environment free from all forms of harassment and discrimination for all University Community members. The University does not discriminate on the basis of race, color, ethnicity, national origin, age, gender, sex, sexual orientation, gender identity or expression, physical or mental disability, religion, status as a veteran or special disabled veteran, genetic information, or any other protected class. See the [Discrimination, Harassment, and Bias Incident Prevention Policy \(OED-1\)](#) for the University's policy and procedures regarding reporting, review, investigation, and resolution of concerns not related to sexual harassment or misconduct.

The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs, or in the context of employment. Sexual harassment is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972, a federal law

² When used in this Policy, "employee" generally refers to both professional staff and faculty members.

³ Drexel University is committed to maintaining an environment in which learning and discovery take place in a professional atmosphere of mutual respect and trust. While the University respects the privacy of its community members, Drexel recognizes that certain relationships in the work and educational setting have the potential to compromise, or appear to compromise, the fairness and objectivity of employment and educational decisions and the discharge of other professional duties. To understand the University's expectations regarding issues that may arise in the educational and employment environment around personal relationships, please see the following policies:

Nepotism/Employment of Relatives & Consensual Amorous Relationships HR- 46
(<http://drexel.edu/hr/resources/policies/dupolicies/hr46/>)

Amorous Relationships Involving Athletics Department Personnel and Student Athletes HR-46.01
(<http://drexel.edu/hr/resources/policies/dupolicies/hr4601/>)

which provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

The University is obligated by Title IX not to discriminate on the basis of sex. This obligation extends not only to current students and employees, but also to applicants for admission and employment. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964 and Pennsylvania law.

Inquiries About Title IX Applicability

Inquiries about the application of Title IX to the University or concerns regarding this Policy may be made internally to:

Paul Apicella, Title IX Coordinator

Office of Equality and Diversity, Drexel University
James E. Marks Intercultural Center
3225 Arch Street, Ground Level, Suite 011
Philadelphia, PA 19104

Phone: 215.895.1405

Email: OED@drexel.edu

Website: <https://drexel.edu/oed/reporting/Title-IX/>

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Phone: (800) 421-3481

Fax: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

Equal Opportunity Employment Commission – Philadelphia District Office

801 Market Street, Suite 1000
Philadelphia, PA 19107-3126

Phone: (800) 669-4000

Fax: (215) 440-2606

TTY: (800) 669-6820

Email: PDOCContact@eeoc.gov

V. STATEMENT ON PRIVACY AND CONFIDENTIALITY

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. While they are closely related, the concepts of privacy and confidentiality are distinct terms that are defined below.

Privacy refers to the discretion that will be exercised by the University, including the Office of Equality and Diversity, in the course of any investigation or disciplinary processes under this policy. Information related to a report of Prohibited Conduct will be handled discreetly and shared with a limited circle of University employees or designees who need to know in order to assist in the assessment, investigation and resolution of the report and related issues. University employees will receive training in how to safeguard private information. The University will make reasonable efforts to investigate and address reports of Prohibited Conduct under this policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the University will maintain the privacy of the parties to the extent reasonably possible. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). Access to an employee's personnel records is also governed by University policy and by applicable local laws.

Confidentiality refers to the statutory protections provided to individuals who disclose information in legally protected or privileged relationships, including professional mental health counselors, medical professionals, and ordained clergy (Confidential Resources). These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of the provision of professional services. When an individual shares information with a Confidential Resource as a confidential communication in the course of a protected relationship, the Confidential Resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

When evaluating, addressing, and resolving any reported allegation of Prohibited Conduct, every effort will be made to respect and protect the privacy interests of the individuals involved. Such efforts will take into consideration the need for a thorough review of the matter, the need to ensure the safety and protection of any individual(s) involved and the safety of the broader University Community.

Information related to a Report of Prohibited Conduct will be shared on a "need-to-know" basis, meaning it will only be shared with those individuals who "need-to-know" specific information in order to assist in providing supportive measures and accommodations, and to assist in the resolution of a matter.⁴ Students or employees wishing to obtain confidential assistance or

⁴ Under the Title IX regulations, the University is required to keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a Report or filed a

access to campus resources without making a Report to the University may do so by speaking with professionals who are obligated by law to maintain confidentiality. These professionals, who are identified in Appendix E, include individuals in the Student Health Center, the Student Counseling Center, pastoral counselors within the Office of Religious and Spiritual Life, and the Employee Assistance Program.

All processes outlined in this Policy will be conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, any applicable federal, state and/or local laws and regulations and any other relevant University policies. No information related to a specific case shall be released or disclosed, except as required or permitted by law or University policy.

VI. DEFINITIONS OF PROHIBITED CONDUCT

The University prohibits sexual harassment and sexual misconduct against all University Community members, regardless of sex, gender, sexual orientation, gender identity or gender expression. Prohibited Conduct, as set forth in this Policy, encompasses a broad range of unwelcome conduct of a sexual nature that is committed without consent, by force, intimidation, coercion or manipulation, or where a person is incapable of consent due to incapacitation. While the University is obligated to adopt certain definitions set forth under Title IX regulations, the University has chosen to expand Prohibited Conduct to include additional terms and to prohibit additional conduct that, while beyond the technical scope of the federal Title IX regulations, may impact the University Community or University Community members. Consistent with the University's core values, this Policy addresses both conduct prohibited by Title IX, as well as other acts of sexual misconduct.

A. Title IX Sexual Harassment⁵

Formal Complaint of sexual harassment, any Complainant, any individual alleged to be the perpetrator of sex discrimination, any Respondent and any witness, except as may be permitted by Family Educational Rights and Privacy Act, as otherwise required by law or to carry out the an investigation, hearing or judicial proceeding in compliance with this Policy.

⁵ Federal regulations implementing Title IX require the University to define "Sexual Harassment" as conduct that: (a) meets one or more of the Definitions of Prohibited Conduct set forth in Section V, Paragraphs (A)(1) through (A)(6); and (b) occurred in the United States in a location, event or circumstance over which the University exercises substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred or took place, including any building owned or controlled by a student organization that is officially recognized by the University, such as a fraternity or sorority house. Sexual Harassment, as defined by Title IX, covers current students and employees, those seeking admission or employment and those seeking to participate in a program or activity of the University, such as alumni programs.

The University is required under Title IX to dismiss any portion of a Formal Complaint or allegation therein if, at any time during the Formal Resolution Process, it is determined that: (1) the conduct alleged in the Formal Complaint, if proved, would not constitute Sexual Harassment as defined under Title IX; (2) the conduct did not occur in an educational program or activity controlled of the University – meaning it did not occur in a location, event or circumstance over which the University exercised substantial control over both the Respondent and the context in which the alleged sexual harassment occurred; (3) the conduct alleged did not occur against a person in the United States; and/or (4) at the time of filing a Formal Complaint, a Complainant was not participating in or attempting to participate in the education program or activity of the University. In the event of a mandatory

- (1) **Sexual Harassment 1 (Hostile Environment):** Unwelcome conduct on the basis of sex, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.
- (2) **Sexual Harassment 2 (Quid Pro Quo):** An individual conditioning the provision of a University aid, benefit, or service on another's participation in unwelcome sexual conduct.
- (3) **Sexual Assault:** Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of consent and incapacitation). Sexual contact includes:
 1. Sexual intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
 2. Sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.
- (4) **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
 - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
- (5) **Domestic Violence:** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;

dismissal required by the Title IX regulations, a matter may still proceed through the University's Formal Resolution Process, so long as the remaining allegations set forth in the Formal Complaint, if proved, would constitute violations of this Policy. In the event that Title IX requires the University to dismiss a Formal Complaint, or any allegation therein, a Party may request an appeal of such a dismissal. Appeal procedures are set forth in Appendix A, Section VI (students) and Appendix B, Section VI (employees).

- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
- By a person similarly situated to a spouse of the victim.

The relationship between the Respondent and the alleged victim must be more than two people living together as roommates; the people cohabitating must be current or former spouses or intimate partners.

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

“Course of conduct” broadly captures the wide range of words, behaviors, and means that perpetrators use to stalk victims, and, as a result, cause their victims to fear for their personal safety or the safety of others or suffer substantial emotional distress. “Course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

“Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

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

B. Other Sexual Misconduct

- (7) **University Sexual Harassment (severe or pervasive):** Any unwelcome sexual advance; request for sexual favors; or other unwelcome verbal or physical conduct of a sexual-based nature, when such conduct is severe *or* pervasive and has the purpose or effect of unreasonably interfering with an individual’s access to University employment or educational opportunities by creating an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, or social environment. The effect will be evaluated based on the perspective of a reasonable person in the position of a Complainant.

A single or isolated incident may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical.

- (8) **Non-Physical Intimate Partner Violence:** Non-Physical Intimate Partner Violence includes a broad range of behavior and conduct directed toward

an individual who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with the Respondent, when such conduct is severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's access to work or educational opportunities by creating an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, or social environment. Such conduct may include verbal, emotional, and economic abuse, as well as threatened acts of violence against a person or property.

- (9) **Sexual Exploitation:** Sexual exploitation is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. See Appendix C for examples of behaviors that may constitute sexual exploitation.
- (10) **Sexual Offenses Against Persons Under the Age of 18:** Includes photographing, videotaping, filming, or depicting on computer an individual under the age of eighteen (18) engaging in an actual or simulated sexual act, lewd exhibition of the genitals, or nudity, if such nudity is depicted for the purpose of sexual gratification; or knowingly disseminating, possessing, controlling, or displaying any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction, or other material depicting a child under the age of 18 engaging in an actual or simulated sexual act, lewd exhibition of the genitals, or nudity, if such nudity is depicted for the purpose of sexual gratification.

Additional information related to the protection of minors and reporting requirements for suspected or actual instances of child abuse can be found in the University's Protection of Minors and Reporting Child Abuse Policy (PS-1) at [http://drexel.edu/publicsafety/about/policies/PS- 1/](http://drexel.edu/publicsafety/about/policies/PS-1/).

C. Retaliation

Retaliation includes words or acts, as described below, committed against an individual or group of individuals involved in a protected activity. Protected activity includes making a good faith Report or filing a Formal Complaint under this Policy; filing an external complaint; or opposing in a reasonable manner and consistent with University policy an action reasonably believed to constitute a violation of this policy.

Retaliation also includes intimidation, threat, coercion, or discrimination against an individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a Report or Formal Complaint of Prohibited Conduct, testified, assisted, participated, or refused to participate, in any manner in any investigation, proceeding, or adjudication meeting under this policy.

Retaliation can take many forms, including, but not limited to, adverse action or violence, threats and intimidation that would discourage a reasonable person (under similar circumstances and

with similar identities to the targeted individual or group) from engaging in protected activity.

D. Statement on Consent and Incapacitation

Consent: Under this Policy, “Consent” is a freely and affirmatively communicated willingness to participate in sexual activity or behavior, expressed either by words or clear, unambiguous action. Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. For this reason, relying on non-verbal communication can lead to misunderstandings.

Consent must be present throughout the sexual activity. At any time, a participant can communicate that they no longer consent to continuing the activity. Engaging in sexual activity without consent violates University policy and may result in criminal and/or civil liability.

Incapacitation: Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring.

For additional information regarding the concepts of Consent and Incapacitation, please see Appendix F.

VII. ROLE OF THE TITLE IX COORDINATOR

The Title IX Coordinator oversees the University’s centralized review and resolution processes for all Reports of Prohibited Conduct. The Title IX Coordinator is supported by professional staff in the Office of Equality and Diversity, as well as University administrators who serve as Deputy Title IX Coordinators and Title IX Liaisons. For more information related to Deputy Title IX Coordinators and Title IX Liaisons, please see Appendix E.

The Title IX Coordinator, working with Deputy Title IX Coordinators and other relevant University administrators, will ensure that the University responds to and resolves all Reports in a timely, effective, and consistent manner. The Title IX Coordinator is also charged with implementing any appropriate Supportive and Protective Measures to ensure the safety of the University Community.

The duties and responsibilities of the Title IX Coordinator include:

- Responsibility for overall Title IX compliance, including notifying all students, employees, applicants for admission or employment, and unions of the University’s obligations under Title IX and publication of the Title IX Coordinator’s contact information, reporting options, and the applicable procedures, process, and options available after a Report is made;
- Oversight of Deputy Title IX Coordinators and Title IX Liaisons;

- Assisting any individual in identifying the appropriate University policy to resolve a Report in a prompt and equitable manner;
- Providing information and resources to all parties involved in a Report under this Policy;
- Acting as a central source for all sexual harassment and sexual misconduct allegations;
- Conducting annual and on-going climate checks, tracking, and monitoring sexual harassment and sexual misconduct allegations on campus; and
- Coordinating training, education, and prevention efforts related to issues covered under this Policy.

The Title IX and Deputy Title IX Coordinators are available to meet with any individual, whether a Complainant, a Respondent, or a third party, to discuss Supportive Measures, campus and community resources, and procedural options. They can be contacted by telephone, e-mail, mail, or in person during regular business hours using the contact information listed below and on the Office of Equality and Diversity’s website.

Paul Apicella, Title IX Coordinator
 Office of Equality and Diversity, Drexel University
 James E. Marks Intercultural Center
 3225 Arch Street, Suite 011
 Philadelphia, PA 19104

Phone: 215.895.1405
 Email: OED@drexel.edu
 Website: <https://drexel.edu/oed/reporting/Title-IX/>

VIII. REPORTING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

To enable the University to respond to all Reports in a prompt and equitable manner, any individual who wishes to report an incident of Prohibited Conduct under this Policy is encouraged to make a direct Report to the Title IX Coordinator, who oversees the University’s Office of Equality and Diversity.

Any person may report sexual harassment or sexual misconduct, whether or not the person reporting is the person alleged to be the victim of such conduct. A Report can be made at any time, including during non-business hours, by contacting the Title IX Coordinator via email, telephone, mail, or by reporting in person during business hours, using the contact information listed below. A Report regarding an emergency situation or a matter requiring the immediate assistance of law enforcement can be made 24 hours a day, 7 days a week by contacting 911 or Drexel University’s Department of Public Safety.

The University encourages all individuals, whether a Complainant or a third party, to report incidents of sexual harassment or misconduct involving a member of the Drexel community to the Title IX Coordinator and, if applicable, the Drexel University Department of Public Safety.

If a report is made against a member of the staff of the Office of Equality and Diversity, the Report will be handled by the Office of General Counsel and any subsequent Formal Complaint will be investigated by an investigator external to the University.

A. Non-Emergency Reporting Options:

To report sexual harassment or misconduct, please contact the Title IX Coordinator:

By Phone:	215.895.1405
By Email:	OED@drexel.edu
In person (during regular business hours):	James E. Marks Intercultural Center 3225 Arch Street, Ground Level, Suite 011 Philadelphia, PA 19104
Mail:	3141 Chestnut Street, 55G Philadelphia, PA 19104
Anonymously:	Drexel University Ethics Point 866.358.1010 (phone) www.drexel.ethicspoint.com (online)

B. Emergency/Immediate Reporting Options:

Any member of the University Community who has experienced or is aware of an incident of sexual harassment or misconduct is encouraged to seek the assistance of the Drexel University Department of Public Safety or call 911. A Report can be made 24 hours a day, 7 days a week.

Drexel University Department of Public Safety
3201 Arch Street, Third Floor
Philadelphia, PA 19104

215-895-2222 (Emergency) or call 911
TTY: 215.571.4141

Medical Treatment and Coordination with Law Enforcement: The University recognizes that in an emergency situation where a person’s health or safety is at risk, trained policed officers are in the best position to quickly and effectively respond. We encourage all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual harassment or misconduct to address any concerns about personal safety and physical and

emotional well-being. Please see Appendix D for more information about medical treatment and law enforcement.

Choosing Whether and Where to Report: The University recognizes that an individual’s decision whether or not to report sexual harassment or misconduct is personal, and that there is no one “right” way to respond. Not every individual will be prepared to make a Report to the University or to law enforcement, and individuals are not expected or required to pursue a specific course of action. Moreover, an individual does not have to decide whether or not to request a specific course of action at the time the Report is made. The University recognizes that choosing to make a Report – and deciding how to proceed after making a Report – can be a process that unfolds over time. At all times, the University will seek to respect an individual’s autonomy in making these important decisions.

There are confidential resources on campus and in the community available to individuals who may have experienced Prohibited Conduct, as defined under this Policy, even if they choose not to make a Report to the University. See Appendix E for more information.

As explained further in the Statement on Privacy, set forth in Section VI above, the University respects the privacy interests of all individuals. All information reported will only be shared with those individuals needed to coordinate the provision of Supportive or other measures, or to otherwise assist in the resolution of the matter.

Anonymous Reporting: Any individual may make an anonymous Report concerning an act of sexual harassment or misconduct. An individual may report the incident without disclosing their name, identifying the Respondent, or requesting any action.⁶ However, depending on the information available about a reported incident or the individuals involved, the University’s ability to respond to an anonymous Report may be limited.⁷

Anonymous Reports may be made by telephone to Drexel University’s Compliance Hotline by calling 866-358-1010 (Drexel University) or online at www.drexel.ethicspoint.com. The University’s Compliance Hotline is EthicsPoint, an externally monitored service that allows anyone to report suspected misconduct or other issues. This service allows the person making the Report to confer anonymously with University administrators about additional details. All anonymous Reports of Prohibited Conduct under this Policy will be forwarded to the attention of the Title IX Coordinator while maintaining the reporting party’s confidentiality.

Time Frame for Making a Report: There is no time limit on making a Report of sexual harassment or misconduct to the University. However, individuals are strongly encouraged to report incidents of, or share information about, sexual harassment or misconduct as soon as possible after an incident occurs. The University’s ability to provide adequate Supportive Measures or to adequately investigate allegations of Prohibited Conduct are greatly enhanced if

⁶ Mandatory Reporters may not make anonymous Reports. Mandatory Reporters are required to report all relevant details related to an incident of sexual harassment or misconduct, including, if known, the identities of the involved parties, as well as the date, time, and location of the alleged incident. For more information related to Mandatory Reporters, see Section VIII below.

⁷ If the alleged victim chooses to remain anonymous, for example, the Title IX Coordinator may be precluded from proceeding through the Formal Resolution Process set forth below.

information is reported to the Title IX Coordinator in a prompt manner. While the mere passage of time will not prohibit the University from investigating an allegation of Prohibited Conduct, the University's ability to access relevant evidence, parties or witnesses may be impacted.

Amnesty for Students Who Report Prohibited Conduct: The University encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The University recognizes that an individual who has been drinking alcohol or using drugs at the time of an incident may be hesitant to make a Report or provide information in connection with an investigation under this Policy because of potential Student Code of Conduct consequences for their own actions. When information is uncovered during the Initial Assessment, Preliminary Inquiry, or Formal Resolution Process that involves alcohol or drug use in violation of the Student Code of Conduct, such information typically will not be used to pursue any disciplinary action for alcohol or drug use.⁸ The Office of Student Conduct may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Statement Regarding False Allegations and Evidence: Deliberately false and/or malicious accusations under this Policy (as opposed to allegations which, even if erroneous, are made in good faith) are a violation of University policy and will be subject to appropriate disciplinary action. Additionally, witnesses and Parties knowingly providing false evidence or statements, tampering with or destroying evidence after being directed to preserve such evidence as part of the Formal Resolution process, or deliberately misleading a University Official administering a process under this Policy may be subject to discipline under this or other University policies.

IX. EMPLOYEE RESPONSIBILITY TO REPORT SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

Under this Policy, every employee of the University is designated as either a "Confidential Employee" or a "Mandatory Reporter."

A Mandatory Reporter is a University employee who is obligated to report incidents of sexual harassment or misconduct to the Office of Equality and Diversity. All University faculty and staff, including officers, deans, department heads, academic advisors, directors, and supervisors, and student employees or volunteers who are responsible for student or patient welfare are Mandatory Reporters. Mandatory Reporters are required to report all known details related to an incident of Prohibited Conduct, including, if known: the identities of the involved parties and witnesses; the date, time, and location of the alleged incident; and the details of the alleged incident. Mandatory Reporters should report any incident of sexual harassment or misconduct, regardless of whether or not the Mandatory Reporter witnessed the incident or learned of it through a Complainant or third party. A Mandatory Reporter should make every effort to advise a student of their mandatory reporting obligation before the student discloses sensitive information.

⁸ Exceptions to this general amnesty provision may include, for example, instances in which it is determined that an individual may have purchased, sold, or provided drugs or alcohol to others for the purposes of rendering them incapacitated or to facilitate an act of sexual misconduct.

A Confidential Employee is any University employee who is a licensed medical, clinical, or mental health professional (e.g., physicians, nurses, psychologists, counselors, social workers, and those performing services under their supervision), when acting in that professional role to provide services to a patient who is a student or an employee of the University; or any employee explicitly designated as a Confidential Employee by the University. Except under certain circumstances, Confidential Employees are *not* required to report incidents of sexual harassment or misconduct to the Office of Equality and Diversity.⁹

Any questions regarding the existence or scope of an individual's reporting obligations under this Policy should be directed to the University's Title IX Coordinator.

Special Reporting Obligations for Suspected Abuse of a Child: All University employees are required to comply with all applicable laws regarding the protection of minors and reporting obligations for suspicion of child abuse or neglect. This includes, but is not limited to, any suspicion involving sexual violence against a child or the creation, possession, or viewing of child pornography. For more information, see the University's Protection of Minors and Reporting of Child Abuse Policy (PS-1) at <http://drexel.edu/publicsafety/about/policies/PS-1/>.

X. INITIAL ASSESSMENT, PRELIMINARY INQUIRY AND SUPPORTIVE MEASURES¹⁰

A. Initial Assessment

The University will review and respond to all Reports of Prohibited Conduct which it receives. Upon receiving a Report, the University will conduct an Initial Assessment of the matter reported. During its Initial Assessment, the University will:

- Promptly contact the Complainant to discuss the availability of Supportive Measures, discuss the Complainant's wishes with respect to such measures and inform the Complainant of their options, including the process for filing a Formal Complaint.
- Determine if there is any immediate risk of harm to individuals or to the University Community and take necessary steps to address those risks, as set forth in Section X below.
- Evaluate whether the alleged conduct falls within the purview of this Policy.

The University's responsibility to conduct an Initial Assessment of all reported allegations of sexual harassment or misconduct exists regardless of whether it culminates in the initiation of the Formal Resolution Process (see Section XI below) and exists independently of any law

⁹ The concept of Confidentiality does not apply with respect to incidents of potential Prohibited Conduct involving a minor (under the age of 18). In such cases, these incidents should be reported in accordance with the University's Protection of Minors and Reporting of Child Abuse Policy (PS1): <http://drexel.edu/publicsafety/about/policies/PS-1/>.

¹⁰ Note that this Section is intended to serve as a high-level overview of the University's resolution processes. For a more robust discussion of these processes, please see Appendix A (Reports Against Students) and Appendix B (Reports Against Employees).

enforcement processes that may be underway.

B. Preliminary Inquiry

After its Initial Assessment, the University will conduct a Preliminary Inquiry to determine whether the alleged conduct, if proved, would constitute a violation of this Policy. The University will not make credibility determinations in conducting its Preliminary Inquiry but will instead consider whether a Report of Prohibited Conduct, if assumed to be true, would constitute a violation of this Policy. If the University determines that the reported behavior or conduct, if proved, would *not* constitute a Policy violation, the University will notify the Complainant and inform the Complainant of other options and resources available at the University or within the community, as appropriate. The University may not proceed with the Formal Resolution Process (set forth below) for Reports of alleged behavior that would *not*, even if assumed to be true, constitute Prohibited Conduct under this Policy.

C. Supportive Measures

In connection with its Initial Assessment and Preliminary Inquiry, the University will determine the necessity and scope of any Supportive Measures. Supportive Measures are non-disciplinary, non-punitive, individualized services or actions that are taken or provided, free of charge to all parties and witnesses. Supportive Measures can be provided or considered even if no Formal Complaint is filed.

The University is committed to providing Supportive Measures on an individualized and ongoing basis throughout the resolution of a matter, depending on the known facts and circumstances of each case. The University's goal in providing Supportive Measures is to ensure equal access to its educational environment, including to the University's programs, activities, and opportunities, and to deter sexual harassment and sexual misconduct.

Even when a Complainant or Respondent does not specifically request that a Supportive Measure and/or Protective Measure (discussed in Section X below) be taken, depending on the nature of the Report, the University may choose to institute Supportive or Protective Measures, at its discretion, to ensure the safety of any individual, the broader University community, or the integrity of the Formal Resolution Process. Supportive Measures provided to a Complainant or Respondent are maintained as confidential, except in situations where such confidentiality would impede the ability of the University to provide those measures.

All individuals are encouraged to promptly report to the University's Title IX Coordinator any concerns related to Supportive Measures that have or have not been implemented with respect to any matter.

Supportive Measures may include, but are not limited to:

No Contact Agreement: A Complainant and/or Respondent may request, or the University may impose, mutual communication and contact restrictions to prevent further, potentially harmful interaction. Such communication and contact restrictions generally preclude in-person, telephone, electronic, or third-party communications. A student or employee can always request modification of a No Contact Agreement. The University may also limit an

individual's or organization's access to certain University facilities or activities as part of the No Contact Agreement.

No Contact Order: A Complainant and/or Respondent may request, or the University may unilaterally impose, restrictions on the communication and contact between the Parties to prevent further, potentially harmful interaction. Such restrictions generally preclude in-person, telephone, electronic, or third-party communications. The University may also limit an individual's or organization's access to certain University facilities or activities as part of a No Contact Order. The University will consider modification of a No Contact Order upon the request of a Party.

Academic, Employment, or Residence Modifications: A Complainant and/or Respondent may request an academic or employment accommodation or a change in residence after a Report of sexual harassment or misconduct. An individual who requests assistance in changing their academic, employment, or living situation after an alleged incident of Prohibited Conduct is reported will receive appropriate and reasonably available accommodations. As stated above, all accommodations are non-punitive, non-disciplinary, and are typically provided free-of-charge, whether or not a Formal Complaint has been filed. Examples may include, but are not limited to, the following:

- **Academic accommodations**, including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class remotely, using audiovisual platforms or other alternative means, providing an academic tutor, or extending deadlines for assignments
- Change in **housing assignment**
- Change in **work assignment**, location, or schedule
- Provision of an **escort** to ensure safe movement between classes and activities

Emotional Support: The University will provide counseling services through the Counseling Center, free of charge, or will assist in providing a referral to off-campus providers or agencies, as detailed Appendix E.

XI. EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE

Where the Initial Assessment of a Report of sexual harassment or misconduct indicates an ongoing risk of harm to the safety or well-being of an individual or members of the University Community, the University may institute Emergency Removal (in the case of students) or Administrative Leave (in the case of non-student employees), regardless of whether a Formal Complaint has been filed. In all cases, the University will tailor the scope of any such removal or leave to the circumstances justifying their imposition, and will typically not seek to implement measures that are more restrictive than reasonably necessary to mitigate identified risks to the safety or well-being of individuals or the University Community.

Emergency Removal: Emergency Removal means a temporary restriction on an individual's

access to the University's educational programs or activities, including but not limited to residential and academic facilities, as determined on a case-by-case basis.

A decision regarding Emergency Removal will only be made after the University conducts and documents a safety and risk analysis based upon the specific circumstances known at the time of the assessment. Emergency Removals will only be implemented if the University determines that a threat to the physical health or safety of a student or another individual, arising from the allegations of sexual harassment or misconduct, justifies removal. In circumstances where Emergency Removal is justified, and in cases of Administrative Leave, an individual or organization may be denied access to campus. When an individual is removed on an emergency basis, the University will provide the individual with notice of the decision, as well as an opportunity to appeal the decision immediately following removal.

Administrative Leave: Administrative Leave means a temporary removal from the work environment of a University employee, with or without pay, following an allegation of Prohibited Conduct or other similar circumstance, pending resolution of the matter under this Policy. Administrative Leave may include restricted access to the University's facilities and resources. A decision regarding Administrative Leave will be made based on the specific circumstances presented.

XII. FORMAL RESOLUTION PROCESS: INVESTIGATION, ADJUDICATION, AND ALTERNATIVE RESOLUTION OF COMPLAINTS

A. Overview¹¹

After an Initial Assessment and Preliminary Inquiry have been conducted, the University may implement its Formal Resolution Process. The Formal Resolution Process, which begins when a Formal Complaint is filed, offers two avenues for resolving matters: (1) Alternative Resolution or (2) Investigation and Adjudication. In order to begin a Formal Resolution Process in any individual case, the following conditions must be met:

- 1) **A Formal Complaint has been filed.** The University may not proceed with any Formal Resolution Process in the absence of a Formal Complaint. Complainants are encouraged, but never required, to participate in the University's Preliminary Inquiry process and are likewise encouraged to file a Formal Complaint with the University if they wish to explore Alternative Resolution options or to request that the University proceed to Investigation and Adjudication.
- 2) **The Respondent is a member of the University Community.** In cases where a Respondent is not affiliated with the University, the Formal Resolution Process is not available to the Complainant. In such cases, the University will still conduct an Initial Assessment, offer Supportive Measures, and take appropriate action to eliminate a

¹¹ This section is intended to provide an overview of the Formal Resolution Process. For more detail regarding the Formal Resolution Process, refer to Appendix A (students) and Appendix B (employees) at the end of this Policy.

hostile environment.

Whether the Formal Resolution Process is applied to any individual case may depend on a variety of factors, including:

- whether the Complainant wishes to file a Formal Complaint;
- the risk(s) posed to any individual or to the University Community by not proceeding with the Formal Resolution Process; and
- the nature of the allegations and information known by the University at the time such a determination is made.

The Formal Resolution Process is guided by the principles of fairness and respect for all parties. Before any disciplinary action is taken, Parties will be provided with notice of the allegations, the opportunity to respond, and the opportunity to be heard. Resources are available to either Party to provide guidance and support throughout the Formal Resolution Process.

B. Formal Complaints

A Formal Complaint is a document signed (by hand or electronically) by the Complainant or the Title IX Coordinator that alleges Prohibited Conduct by a Respondent and requests that the University address the allegation(s) through the Formal Resolution Process. A Formal Complaint must be filed with or by the Title IX Coordinator, or their designee, after meeting with a member of the Office of Equality and Diversity, even if a written Report was originally provided at the outset of the matter.

The University will consider any request from an individual outside the University to file a Formal Complaint on a case-by-case basis, after consideration of all the circumstances made known to the University, including the effect of the alleged Prohibited Conduct on the University Community, the location of the alleged misconduct, and the identities of the individuals alleged to have been involved.

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, the Title IX Coordinator will consider the following factors:

- A Complainant's request that their identity remain confidential;
- The seriousness of the alleged conduct;
- Any potential threats to the safety of the individual(s) involved, as well as the safety of the broader University Community;
- The respective ages and positions of the Complainant and the Respondent;
- Whether there have been other Reports made or Formal Complaints filed against the

Respondent;

- The Complainant's expressed wishes for a Formal Resolution Process;
- The Respondent's right to receive information under applicable laws and regulations;
- The University's obligation to provide a safe and non-discriminatory environment for all University community members.

In those instances when the Title IX Coordinator files a Formal Complaint in lieu of an alleged victim or Complainant, the Title IX Coordinator will notify the Complainant that the University intends to initiate an Investigation. The Complainant is not required to participate in the Investigation or in any related actions taken by the University.

The Title IX Coordinator or their designee also has the discretion to consolidate multiple Formal Complaints against a Respondent into one investigation if the evidence related to each alleged incident would be relevant in reaching a determination as to the other alleged incident(s).

In all cases where confidentiality is requested, the University will balance this request with its obligation to provide a safe and non-discriminatory environment and to comply with applicable law and regulations. When the University honors a Complainant's request for confidentiality after weighing all relevant factors, it will nevertheless continue to take steps to provide appropriate Supportive Measures to the Complainant in order to limit the effects of the alleged misconduct and to aid in the prevention of its recurrence.

Request for Confidentiality: If a Complainant requests that their name or other identifiable information remain confidential, the University will at all times seek to respect the request of the Complainant, and where it cannot do so, the University will communicate with the Complainant about the reasons why the request for confidentiality cannot be honored. The University's ability to proceed to Formal or Alternative Resolution Processes may be limited by a request for confidentiality, however, as a Formal Complaint must typically disclose the identity of a Complainant if it is known. A Complainant may nevertheless always obtain Supportive Measures while keeping their identity confidential from the Respondent, to the extent such anonymity is reasonably possible while implementing the Supportive Measure(s).

C. Alternative Resolution

The University has developed an Alternative Resolution processes to address reports of Prohibited Conduct in instances where use of the Investigation and Adjudication processes may not be requested or warranted.

The procedures for these resolution processes will be determined by the nature of the Respondent's membership in the University Community.

- See [Appendix A](#) for more detailed information regarding Alternative Resolution processes in connection with reports of Prohibited Conduct made against **Students**.
- See [Appendix B](#) for more detailed information regarding Alternative Resolution process in connection with reports of Prohibited Conduct made against **Employees**.

D. Investigation and Adjudication

Investigation

In cases where a Formal Complaint has been filed, a case may proceed to an Investigation. During an Investigation, the Investigator will meet with each Party and relevant witnesses and will collect and review evidence related to the allegations set forth in the Formal Complaint. Investigations will be impartial, fair, and thorough, and all individuals will be treated with sensitivity and respect. All Respondents will be presumed non-responsible until a Determination regarding responsibility is reached at the end of the Formal Resolution Process.

At the conclusion of the Investigation, the Investigator will prepare a draft Investigative Report that fairly summarizes the relevant evidence collected during the Investigation. The Parties will have an opportunity to inspect and review the draft Investigative Report, as well as other evidence collected as part of the Investigation that is directly related to the allegations raised in the Formal Complaint, even if such evidence was not deemed sufficiently relevant by the Investigator to be included in the draft Investigative Report. The Parties will have an opportunity to provide written feedback to the Investigator, who will consider such responses before finalizing the Investigative Report and issuing a Threshold Determination. Depending on whether a student or employee is involved, the Investigator's Threshold Determination will be forwarded to the Office of Student Conduct, the Office of the Provost, or Human Resources, as appropriate.

Adjudication

The University's Title IX Coordinator oversees the Resolution of any reported sexual harassment and sexual misconduct through the University's Formal Resolution Process, as outlined above, and as set forth in further detail in Appendix A (Students) and Appendix B (Employees). The Adjudication process will be determined by the nature of the Respondent's membership in the University Community:

- Formal Complaints involving student-Respondents will be resolved under the Student Code of Conduct. See Appendix A.
- Formal Complaints involving faculty- or staff-Respondents will be resolved utilizing the procedures outlined in Appendix B.

E. Sanctions for Prohibited Conduct

If any individual is found to have violated this Policy under the preponderance of the evidence standard, the University will address such Prohibited Conduct promptly and effectively through appropriate remedial measures and/or sanctions. In the case of employees, sanctions may take the form of disciplinary action, up to and including discharge from employment. In the case of students, sanctions may include disciplinary action, up to and including expulsion. For more information about the sanctioning process, please see Appendix A (students) and Appendix B (employees). Third parties who engage in Prohibited Conduct also may be sanctioned, including termination of the University's contract or other arrangements with such third party.

Even in cases in which the University does not conclude that a violation of this Policy has occurred, the University reserves the right to take further action as may be appropriate or warranted in order to meet its educational mission and to protect the rights and safety of its community members.

XIII. EDUCATIONAL PROGRAMS

The University educates its community about sexual harassment and sexual misconduct through diverse educational opportunities for faculty, professional staff, and students. These include, but are not limited to, mandatory employee training, educational programs for senior administrators and first responders, freshman, and transfer-student orientation programs each fall, and in-person programs for Residential Living, Athletics and Greek organizations. Through tracking trends, OED is proactive about targeted training, as needed. The OED and other University partners offer sexual assault education and information programs to University students and employees upon request. Literature on non-stranger rape education, violence prevention, bystander prevention programming, risk reduction, and University response is available through the Office of Equality and Diversity.

Appendix A - Procedures for Resolving Reports Against Students

I. Introduction

The University is committed to providing a prompt and equitable response to all reports and Formal Complaints of Prohibited Conduct under the Sexual Harassment and Sexual Misconduct Policy (Policy). The University's resolution processes for addressing Prohibited Conduct are grounded in the principles of support and fairness for all parties, including the provision of procedural protections that ensure notice, equitable opportunity to participate, and neutral and impartial investigation, resolution, and appeal procedures. The definitions for specific forms of Prohibited Conduct and other core concepts are included in [Appendix G – Glossary](#). This resolution process will be used to resolve Reports and Formal Complaints of Prohibited Conduct made against Students.

II. Process Overview

A. Report

Any person may make a Report against any student or student organization for alleged violation(s) of the University's Sexual Harassment and Sexual Misconduct Policy (OED-3). Reports should be referred to the Title IX Coordinator (or to OED), who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence, and address its effects.

B. Initial Assessment

Upon receipt of a Report, the University will conduct an Initial Assessment of the matter and will promptly contact the Complainant and provide information about and resources and options, including the Formal Resolution Process and available Supportive Measures. The Complainant will be invited to meet with the Title IX Coordinator, or their designee, to learn more about Supportive Measures and the Formal Resolution Process and to discuss the Complainant's preferences for resolution and Supportive Measures.

During the Initial Assessment, the University will:

- Evaluate whether the alleged conduct falls within the purview this Policy;
- Assess appropriate Supportive Measures; and
- Evaluate the need for any Protective Measures, including Emergency Removal of a Respondent if they are determined to present a threat to health or safety of an individual or the University Community.

The Initial Assessment will consider the nature of the Report; the safety of the Complainant, other individuals or identifiable groups, and/or the University Community; the Complainant's expressed preferences for resolution and Supportive Measures; and the necessity for any Protective Measures, including Emergency Removal, to protect the safety of the Complainant or the University Community.

C. Preliminary Inquiry

When a Complainant is interested in participating in the University's Formal Resolution Process (to include Investigation and Adjudication or Alternative Resolution), an Investigator will meet with the Complainant to gather information about the Report. The Investigator will review the information gathered during the interview with the Complainant and will assess whether the alleged conduct, if proved, would constitute a Policy violation. The Investigator will not make credibility determinations in conducting the Preliminary Inquiry.

If the Investigator determines that the alleged conduct, if proved, would not constitute a Policy violation, the University will notify the Complainant and inform the Complainant of other options and resources available at the University or within the community, as appropriate. If the Investigator determines that the elements of a Policy violation have been raised, the Complainant may indicate their willingness to proceed with a Formal Complaint.

D. Formal Complaint

Any Complainant may file a Formal Complaint for a violation of this Policy against any student.¹² In cases where a Complainant does not wish to file a Formal Complaint or in other circumstances, as appropriate, the Title IX Coordinator may, in their discretion, file a Formal Complaint against a student for a violation of this Policy.

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication process, Alternative Resolution options, and available Supportive Measures. The written notice will include details regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the Parties are brought to the attention of the Investigator, the University will provide notice of the additional allegations to the Parties.

At any time after a Formal Complaint is filed, either Party may request an Alternative Resolution. Each resolution process is guided by the same principles of fairness and respect for all Parties.

All Respondents will be presumed “not responsible” until a Determination is reached.

¹² The University will consider any request from an individual outside the University to file a Formal Complaint on a case-by-case basis after consideration of all the circumstances made known to the University, including the definition of “formal complaint” provided in the implementing regulations published by the U.S. Department of Education’s Office for Civil Rights; the effect of the alleged Prohibited Conduct on the University Community; the location of the alleged Prohibited Conduct; and the identities of the individuals alleged to have been involved.

Dismissal of Formal Complaint

The Title IX Coordinator will determine whether the conduct alleged in the Formal Complaint falls within the scope of the policy and the definitions of Prohibited Conduct. The Title IX regulations require the University to dismiss some or all of the allegations in the Formal Complaint related to Title IX Sexual Harassment if:

1. The conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment as defined in the Title IX regulations;
2. The conduct did not occur within the University's education program or activity; or,
3. The conduct did not occur against a person in the United States.

This means that the University may be required by law to dismiss some or all of the allegations in the Formal Complaint under Title IX and provide the parties notice of the dismissal and the opportunity to appeal that dismissal. In the event of a mandatory dismissal required by the Title IX regulations, a matter may still proceed through the University's Formal Resolution Process, so long as the remaining allegations set forth in the Formal Complaint, if proved, would constitute violations of this Policy.¹³

In addition, the Title IX Coordinator may dismiss a Formal Complaint at any stage of the process in any of the following three circumstances:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by the University; or
3. Specific circumstances, including a Complainant's decision not to respond to outreach by the Title IX Coordinator, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any time in the process and will be communicated simultaneously to all Parties in writing. Either Party may challenge the dismissal of a Formal Complaint by notifying the Title IX Coordinator in writing of the challenge within five (5) business days of the decision being communicated. The other Party will be notified of the appeal in writing and will be provided with five (5) days to respond in writing.

At the discretion of the Title IX Coordinator, or their designee, an appeal may be assigned to either an Appellate External Adjudicator or a senior University administrator (collectively, the "Appellate Authority"). In either case, the Title IX Coordinator, or their designee, will ensure that the Appellate Authority is trained, neutral, impartial, and free from conflict, and that the Appellate Authority does not include any previous decision-makers or the Investigator.

¹³ See fn. 5 above.

The Appellate Authority shall, in consultation with the Title IX Coordinator, issue a written decision describing the result of the appeal and the rationale for the result simultaneously to the Parties within ten (10) days of receipt of the opposing Party's response to the appeal. The decision of the Appellate Authority is final.

Title IX Coordinator Discretion to File a Formal Complaint

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, the Title IX Coordinator will consider the following factors:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the Report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's interest in the University not pursuing an Investigation or disciplinary action and the impact of such actions on the Complainant;
- Whether the University possesses other means to obtain relevant evidence;
- Fairness considerations for both the Complainant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The Title IX Coordinator may also re-open a Report under this Policy if any new or additional information becomes available, and/or if the Complainant later decides that they would like a Formal Resolution to occur.

In those instances when the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will notify the Complainant that the University intends to initiate an Investigation. The Complainant is not required to participate in the Investigation or in any of the actions taken by the University.

The University's ability to Investigate and respond fully to a Report may be limited if the Complainant requests anonymity or declines to participate in an Investigation. The University

will, however, pursue other steps to limit the effects of the reported conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the University will conduct an Investigation will be taken in connection with a Report of Prohibited Conduct will be made in a manner consistent with this policy.

Notice of Allegations

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication Process, Alternative Resolution options, and available Supportive Measures. The written notice will include:

- Information regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the parties are brought to the attention of the Investigator, the University will provide notice of the additional allegations to the parties.
- Notice of the University’s Resolution Processes;
- A statement that the Respondent is presumed not responsible for alleged Prohibited Conduct and that a Determination regarding responsibility will be made at the conclusion of the Investigation and Adjudication process;
- Advisement that a party may have an Advisor of their choice who may be, but is not required to be, an attorney and who may inspect and review evidence in the Investigation; and
- That knowingly making false statements or knowingly submitting false information during the Formal Resolution processes is prohibited under this Policy and the Student Code of Conduct.

At any time after a Formal Complaint is filed, either party may request an Alternative Resolution. Each Resolution Process is guided by the same principles of fairness and respect for all parties.

All Respondents will be presumed “not responsible” until a Determination is reached.

E. Advisors and Support Persons

Advisors

The Complainant and Respondent may each have an Advisor of their choice present with them at any meeting, interview, or hearing conducted under this Policy. An Advisor may be, but is not required to be, an attorney. If a Party does not have an Advisor at the time of a

hearing, the University will provide the Party with an Advisor for the purpose of conducting appropriate cross-examination during the hearing.

An Advisor may not provide opening or closing remarks during a hearing and may not otherwise speak on behalf of a Party during any hearing, meeting, or interview conducted under this Policy.

Support Person

In addition to an Advisor, the Complainant and Respondent are each permitted to have a Support Person at every stage in the Investigation and Adjudication process. The Support Person may not be a Party or witness involved in the Investigation. The Support Person may accompany a Complainant or Respondent to any disciplinary proceeding or related meeting. The Support Person may not speak or otherwise participate in the hearing or meetings.

Advisors and Support Persons are expected to maintain the privacy of any records shared with them during the course of any process under this Policy.

III. Alternative Resolution

Upon the filing of a Formal Complaint, the Complainant or the Respondent may request an Alternative Resolution. Participation in any Alternative Resolution processes must be voluntary and mutual, and may begin only after both Parties provide voluntary, informed, written consent to attempt Alternative Resolution.

The University reserves discretion in determining whether any given case is appropriate for Alternative Resolution. Alternative Resolution is not available in cases of alleged Sexual Harassment of a student by a University employee, and may be deemed inappropriate in other cases that include, for example: allegations of Prohibited Conduct involving penetrative acts; allegations of significant violence or threats of violence; instances in which the circumstances of the alleged Prohibited Conduct give rise to concerns that the Alternative Resolution process might be used to abuse, harass, intimidate, or manipulate a Party; or where the University has received more than one Report or Formal Complaint of Prohibited Conduct against the same Respondent under this Policy.

Alternative Resolution may encompass a broad range of conflict resolution strategies including, but not limited to, a facilitated discussion between the Parties, with the assistance of the Title IX Coordinator or their designee; formal mediation between the Parties, conducted by the Title IX Coordinator or a trained designee; or targeted or broad-based educational programming or training. Both Parties will be provided with written notice disclosing the requirements of the Alternative Resolution process, including the right to withdraw from the process at any time prior to Final Resolution; any consequences resulting from participating in the Alternative Resolution process; the circumstances under which the Parties are precluded from requesting to resume the Investigation and Adjudication process with regard to the same allegations; and the records that will be maintained or could be shared as a result of participation in the process.

The Alternative Resolution process may be made available to the Parties at any point prior to a final Determination in the matter. The University will not compel a Complainant or a Respondent to engage in any form of Alternative Resolution. Participation in Alternative

Resolution is voluntary at all times and either Party can withdraw from the Alternative Resolution process and resume the Investigation and Adjudication process at any point prior to Final Resolution of the matter. Any notes taken or information disclosed during an Alternative Resolution process will not be shared or used outside of the Process, except to the extent that they may be relevant or directly related to a subsequent Investigation and Adjudication conducted under this Policy, as required by the applicable federal regulations.

If the Parties reach an agreement during the Alternative Resolution process, they will be asked to sign a written agreement, or Final Resolution, outlining the terms of the agreement. The Final Resolution indicates the conclusion of the Alternative Resolution process and will be maintained by the Office of Equality and Diversity for the sole purpose of ensuring any resulting agreements, remedies, and/or sanction(s) are upheld and/or satisfied, as appropriate. After a matter has reached Final Resolution, the same matter cannot proceed through the Investigation and Adjudication process.

Alternative Resolution processes will typically be completed within sixty (60) days. The time frame may be extended for good cause to accommodate the availability of the Parties, to provide reasonable accommodations, to address University breaks or vacations, or for other legitimate reasons. Any extension of the time frame, and the reason for the extension, will be shared with the Parties in writing.

IV. Investigation

A. Time Frame

The Investigation and Adjudication process will typically be completed within one hundred and twenty (120) days of the filing of the Formal Complaint, although the complexity of a Report may require a longer time frame. The time frame may be extended for good cause to ensure the integrity and completeness of the investigation, to accommodate the availability of the Parties, their Advisors and/or witnesses, to provide reasonable accommodations, to address University breaks or vacations or for other legitimate reasons. In cases where there is a concurrent law enforcement investigation, the University may temporarily delay the investigation as appropriate, which may result in the time frame being extended. Any extension of the time frame, and the reason for the extension, will be shared with the Parties in writing.

B. Consolidation of Multiple Formal Complaints

The Title IX Coordinator, or their designee, has the discretion to consolidate multiple Formal Complaints against more than one Respondent, by more than one Complainant against one or more Respondents, or by one Party against the other Party, into one investigation if the allegations arise out of similar facts or circumstances. In deciding whether to consolidate multiple Formal Complaints into a single investigation, the Title IX Coordinator will consider whether the evidence related to each Formal Complaint would be relevant in reaching a Determination with respect to the others.

C. Investigator

The University, through the Title IX Coordinator, will designate an Investigator, or Investigators, of its choosing. Any Investigator used by the University, whether internal or external, must have specific training and experience investigating allegations of sexual harassment and sexual misconduct. The Investigation will be fair, impartial, and thorough, and all Parties and witnesses will be treated with the appropriate sensitivity and respect. All Respondents will be presumed “not responsible” until a Determination is reached.

D. Participation of the Parties

Complainants and Respondents are encouraged, but never required, to participate in the University’s Investigation and Adjudication process so that the facts of each Report can be explored, and responsible Parties held accountable for their misconduct, if warranted. The University will make multiple good faith attempts to contact the Parties to encourage their participation in the Investigation and Adjudication process. If a Party is unresponsive to multiple good faith attempts to contact them, the Investigator will make reasonable efforts to conduct the Investigation without the participation of the Party. A Party who elects not to participate in any one phase of an Investigation will still be notified of any progress or developments in the process as they occur, and will be provided with an opportunity to participate in subsequent phases of the Investigation and Adjudication process.

If a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw a Formal Complaint, or any allegations therein, the University will make every reasonable effort to comply with that request and to dismiss the Formal Complaint. As explained more fully in OED-3, there may be exceptional circumstances when the University decides to proceed with the Investigation and Adjudication process despite the request of a Complainant. The Complainant, however, will not be required to participate in the process.

E. Presumption of Non-Responsibility

All Respondents will be presumed “not responsible” unless and until a Determination is reached in a matter.

F. Investigation Process

The first step of an Investigation will usually be a preliminary interview of the Complainant by the Investigator. The Investigator will then coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the Determination. Before any interview with a Party, the Investigator will provide to the Party a written notice of the date, time, location, participants, and purpose of the interview and will allow sufficient time for the Party to prepare for the interviews. Both Parties will have an equal opportunity to provide the Investigator with evidence that is directly related to the allegations, whether inculpatory or exculpatory, and the names of possible witnesses, including expert witnesses.

The Investigator will collect all submitted evidence that is directly related to the allegations, regardless of whether or not the evidence is ultimately deemed sufficiently material to be included in the Investigative Report. The Investigator will gather any available physical or medical evidence, including documents, communications between the Parties, and other

electronic records, to the extent they are directly related to the allegations.

The Investigator will gather prior or subsequent relevant allegations of, or Determinations of responsibility for, misconduct by the Respondent. Evidence of an occurrence or occurrences of Prohibited Conduct or other relevant behavior that establishes a pattern of conduct, establishes identity, motive, intent, or opportunity may be admissible during the Investigation and Adjudication process. Evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior Determination of a policy violation, may be admissible.

Information or evidence that relevant evidence was destroyed is admissible and may be considered in assessing the credibility of the Parties and the weight of the evidence.

At the conclusion of the fact gathering phase of the Investigation, the Investigator will prepare an Investigative Report that fairly summarizes the relevant evidence.

G. Inspection of Evidence and Review of Investigation Report

Upon the conclusion of an Investigation, the Parties will be given an opportunity to inspect and review a draft Investigative Report and any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint. The University may, in certain cases, choose to redact information that is not directly related to the allegations or that is otherwise privileged. Upon receiving the draft Investigative Report and evidence, the Parties will have ten (10) days to submit a written response, including any additional information or comment, or request that additional investigative steps be taken. At the conclusion of the 10-day period, the Investigator will review any responses received from the Parties, and will conduct any additional investigative steps, as needed, before completing a final Investigative Report.

H. Statement on Relevance

“Relevant” evidence and questions refer to any questions and evidence that tend to make an allegation of Sexual Harassment or Misconduct more or less likely to be true. Relevant evidence includes both inculpatory and exculpatory evidence. Not all evidence gathered by the Investigator that is directly related to the allegations raised in the Formal Complaint will be considered relevant – including, for example, information that is privileged but for which the individual holding the privilege has not submitted a written waiver; or prior sexual history of a Complainant, unless offered to demonstrate consent or that someone other than Respondent committed the alleged Prohibited Conduct. The Investigator will determine the relevancy of evidence for inclusion in an Investigative Report.

Relevant evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Investigation and Adjudication process:

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege, including medical, psychological, or similar records, unless the person holding such privilege has waived the privilege by providing voluntary, written consent; and

- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

I. Threshold Determination

After considering and incorporating any additional relevant information or comments made by the Parties, the Investigator, in consultation with the Title IX Coordinator, will make a Threshold Determination as to whether the elements of a Policy violation have been sufficiently raised to proceed to Adjudication. In reaching a Threshold Determination, the Investigator may consider:

1. Whether the Prohibited Conduct alleged in the Formal Complaint, if assumed to be true, would constitute a violation of OED-3; and
2. Whether a reasonable person could conclude, based on the information gathered in the Investigation, that a violation of OED-3 had occurred.

Upon the conclusion of an Investigation, both Parties will be advised in writing of the Investigator’s Threshold Determination. If the Threshold Determination is that the elements of a Policy violation have not been raised, or that a reasonable person could not conclude, based on the information gathered in the Investigative Report, that a Policy violation occurred, either Party may appeal the Threshold Determination under the Appeals procedures set forth in this Appendix (See Section VI).

If it is determined that the elements of a Policy violation have been raised or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, each Party will be given an opportunity to submit written information for consideration in determining appropriate Remedies and Sanctions, should the Respondent be found responsible for the alleged Prohibited Conduct during any subsequent Adjudication process. A Complainant may submit an impact statement, and a Respondent may submit a mitigation statement. These statements will be considered as part of the sanctioning process only and will not be made available to any Adjudicator(s) until or unless a Respondent has been determined to be responsible for alleged Prohibited Conduct.

In addition, if the Threshold Determination is that the elements of a Policy violation have been raised, or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, the Title IX Coordinator will meet with each Party to discuss next steps in the process.

V. Adjudication

Permissible manners of Adjudication include 1) resolution by a single Adjudicator, whether internal or external to the University, or 2) resolution by a University Conduct Standards Board. In either manner of Adjudication, the standard for evaluating whether OED-3 has been violated

is preponderance of the evidence (“more likely than not”).

A. Acceptance of Responsibility

After receiving the formal charge(s) from the Office of Student Conduct, the Respondent may choose not to contest the charge(s) and give up the right to a hearing by accepting responsibility for all charges. If a Respondent accepts responsibility, the Complainant will be notified in writing and both Parties will have the opportunity to submit written information for consideration by the Office of Student Conduct; a Complainant may submit an impact statement, and a Respondent may submit a mitigation statement.

The Office of Student Conduct, in consultation with the Title IX Coordinator, will impose appropriate Remedies and Sanctions (see below for guidelines and range of permissible Sanctions). The Complainant and Respondent will be simultaneously notified of the Remedies and Sanction(s) and rationale therefor in writing. This decision may be appealed by both Parties only as to Unduly Harsh Sanction. If there is no appeal by either Party after an acceptance of responsibility, the Remedies and Sanctions imposed by the Office of Student Conduct will be final.

B. Choice of Adjudicator

Where it is determined that the report should be adjudicated by a Conduct Standards Board, the Title IX Coordinator and Office of Student Conduct shall designate Conduct Standards Board members who are trained, neutral, impartial, and free from conflict.

At the discretion of the Title IX Coordinator, in consultation with other relevant University constituents, the University may engage an Adjudicator to serve in lieu of the Conduct Standards Board whenever, in the exercise of judgment, doing so will serve the fair and equitable resolution of the complaint.

The Adjudicator, who may be internal or external to the University, will be a neutral party, usually an attorney, retired judge, or seasoned student conduct administrator, who is trained in the dynamics of sexual harassment and sexual misconduct and the University’s policies and procedures.

The Adjudicator/Conduct Standards Board will be supported by the Title IX Coordinator, or their designee, and a designee of Student Life (overseeing Student Conduct Processes on campus), who will be present during the hearing to serve as a resource for the Adjudicator/Conduct Standards Board on issues of policy and procedure, and to assure that policy and procedure are appropriately followed throughout the hearing.

C. Hearing Procedures

The Complainant, Respondent, Advisors, and witnesses will be notified in writing as to the date, time, and location of the hearing, as well as the identity of the Adjudicator(s) assigned to their case. Either Party may challenge or object to the assignment of any Adjudicator on the basis of a conflict or bias. Challenges to Adjudicator assignments must be made in writing to the Title IX Coordinator at least six (6) days prior to a hearing, in order to provide an opportunity for an

alternate Adjudicator to be identified without causing a delay in the hearing process. Hearings are not open to the public.

In advance of the hearing, the Senior Executive Director for Student Conduct, or designee from Student Life, will provide the Investigative Report to the designated Adjudicator/Conduct Standards Board. The Adjudicator/Conduct Standards Board will have an opportunity to review the Investigative Report at least five (5) days prior to the hearing. The Complainant, the Respondent, and their Advisors will be provided with the Investigative Report for their review at least ten (10) days prior to the hearing.

The Parties are required to promptly inform the Title IX Coordinator, or their designee, of their Advisor of choice who will attend the hearing at least five (5) days in advance of the hearing. If a Party notifies the Title IX Coordinator, or their designee, that they do not have an Advisor for the hearing, the University will provide the Party with an Advisor to conduct cross-examination on their behalf at the hearing. The Title IX Coordinator, or their designee, may reschedule the hearing to ensure that the Advisor has adequate time to prepare for the hearing.

Unless the Complainant or Respondent has declined to participate in the Investigation and Adjudication process, both the Complainant and Respondent will be expected to appear before the Adjudicator/Conduct Board. The Complainant and the Respondent may appear at the live hearing in person or virtually through a remote electronic method.

There will be a single verbatim audio recording of all hearings before the Adjudicator/Conduct Standards Board, which will be the sole property of the University. In the event of an appeal, the recording will be made available to the Parties for inspection and review upon request. This recording will be maintained for a period of seven (7) years.

Regardless of whether an Adjudicator or Conduct Standards Board is used, the general procedure to be followed during hearings is as follows:

- Introductions of all attendees
- Overview of Investigation by Investigator
- Questions posed to Investigator by Advisors and Adjudicator/Conduct Standards Board
- Brief introductory remarks from the Complainant
- Brief introductory remarks from the Respondent
- Questions posed to Complainant by Respondent's Advisor and Adjudicator/Conduct Standards Board
- Questions posed to Respondent by Complainant's Advisor and Adjudicator/Conduct Standards Board
- Questions posed to Complainant's Witnesses by Respondent's Advisor and Adjudicator/Conduct Standards Board
- Questions posed to Respondent's Witnesses by Complainant's Advisor and Adjudicator/Conduct Standards Board

- Short recess
- Brief concluding remarks by Complainant
- Brief concluding remarks by Respondent

The hearing procedure may depart from this general order, depending on the circumstances of each case, but in no instance will either Party be deprived of an opportunity to observe substantive portions of the hearing; to ask or answer questions to or from the other Parties, witnesses, or the Adjudicator/Conduct Standards Board; or to provide introductory or concluding remarks.

D. Cross-Examination

During the hearing, each Party's Advisor may ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally. The Parties may not question each other or other witnesses directly but may raise questions to be asked of the other Party and witnesses through their Advisor.

Before any Party or witness answers a cross-examination or other question, the Adjudicator/Conduct Standards Board must first determine whether the question is relevant and explain any decision to exclude a question as irrelevant. The Adjudicator/Conduct Standards Board may consult with the Title IX Coordinator or designee regarding any questions posed. If the Adjudicator/Conduct Standards Board determines that a question is irrelevant, the Party or witness to whom the question was posed will be directed not to answer the question.

Examples of irrelevant information that may be excluded include, but are not limited to, information protected by a legally recognized privilege; evidence about a Complainant's prior sexual history; and Party or witness statements that have not been subjected to cross-examination at the hearing.

If a Party or witness does not submit to cross-examination at the hearing, the Adjudicator/Conduct Standards Board must not rely on any prior statement, either written or oral, of that Party or witness in reaching a Determination; provided however that the Adjudicator/Conduct Standards Board cannot draw an inference about the Determination based solely on a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

A Party's Advisor may appear and conduct cross-examination even when the Party who they are advising does not appear. Similarly, where one Party does not appear and that Party's Advisor of choice does not appear, the University will designate an Advisor to cross-examine the other, appearing Party on behalf of the non-appearing Party, resulting in consideration of the appearing Party's statements but not the non-appearing Party's statements. Following cross-examination of the Parties and witnesses by Advisors, the Adjudicator/Conduct Standards Board may ask questions of the Parties and witnesses to seek relevant evidence and to follow up on questions asked by the Advisors.

VI. Determination

The Adjudicator/Conduct Standards Board will objectively evaluate all relevant evidence and will reach a Determination based upon a preponderance of the evidence standard. If a Respondent is determined to be responsible for an allegation of Prohibited Conduct, the Adjudicator, Conduct Standards Board, or other individual(s) responsible for determining appropriate sanctions will be provided with access to any impact or mitigating statements that have been submitted by the Parties prior to making a determination regarding Remedies and Sanctions.

Depending on the manner of adjudication, Remedies and Sanctions will be decided upon as follows:

- In cases involving the use of a single Adjudicator, the Senior Executive Director for Student Conduct (or designee), in consultation with the Adjudicator, will determine appropriate Remedies and Sanctions.
- In cases involving the use of a Conduct Standards Board, the Board will recommend Remedies and Sanctions to the Senior Executive Director for Student Conduct (or designee), who will determine appropriate Remedies and Sanctions.

Both Parties will receive simultaneous written notice of a Determination, including any Remedies and Sanctions, within ten (10) days of a hearing.

A. Guidelines for Imposing Remedies and Sanctions

The University will treat Complainants and Respondents equitably by providing Remedies to both Complainants and Respondents, as appropriate, where a Determination of responsibility has been made against the Respondent. Remedies will be designed to restore or preserve equal access to the University's education programs or activities for Complainants, and may include, but are not limited to, the same individualized services described in this Policy as Supportive Measures.

The University will review each case on an individual basis to determine appropriate Remedies and Sanctions. Sanctions may include disciplinary measures imposed upon the Respondent.

In determining appropriate Remedies and Sanctions, the Adjudicator shall consider the following factors:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant or other appropriate parties;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;

- maintenance of a safe and respectful environment conducive to learning;
- protection of the University Community; and,
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Students found to have violated University policies, rules, regulations, or standards of conduct shall be subject to a range of disciplinary actions. This Policy prohibits a broad range of behaviors, all of which are serious in nature. Depending on the specifics of the incident, more or less severe Sanctions may be imposed. More than one Sanction may be imposed for any single violation. Should information come to light that changes the disposition of a case, the Senior Executive Director for Student Conduct (or designee) has the right to reopen the case and to change the prior Sanction.

The University may be limited in its ability to issue Remedies and Sanctions in cases where Parties are no longer affiliated with the University, or where the participation of a Party or witness is limited such that it affects the quantity, quality, or kinds of information available in assessing appropriate Remedies and Sanctions.

The University has the right to withhold the issuance of a degree should a student conduct matter either be unresolved or should the Sanctions for a case be incomplete.

Sanctions that may be imposed include, but are not limited to, the following:

Expulsion: Expulsion is permanent termination of student status and exclusion from University premises, privileges, and activities. Tuition and general University fee refunds will be determined in accordance with the University refund policy as approved by the Board of Trustees. In the case of a student organization, the group will lose its official recognition, allocated funding, and all other privileges.

Withdrawal of (rescind) degree: Withdrawal of degree is a permanent disaffiliation between the Student and the University evidenced specifically by the University's decision to rescind a degree already conferred as cited at drexel.edu/provost/policies/withdrawal_degree. Tuition and general University fees will not be refunded.

Withholding of a degree: A student's degree can be withheld and not immediately issued after degree completion if it is determined that withholding the degree is the most appropriate course of action in lieu of suspension or other comparable action.

Suspension: Suspension is a separation of the student from the University for a specified period of time. A suspended student will be withdrawn from all courses and may not attend classes, take exams, receive grades, maintain a position as a co-op student, hold a leadership position, or be on University premises without the authorization of the Vice President for Public Safety, or their designee, throughout the entire duration of the suspension period.

Loss of Privileges: In the case of a student organization, suspension will result in the loss of privileges including, but not limited to, the use of campus facilities, participation in University activities, hosting and/or participating in events with alcohol, use of allocated

funds, and sponsorship of official activities. Loss of privileges may also include recruitment and new member activities.

Deferred Suspension: Deferred suspension serves as a final warning to a student that if the student is again found in violation of any University policy, the University is obligated to consider suspension as a primary response.

Loss of housing: A student is involuntarily removed from University housing for a designated period of time. Removal from University housing means the student must properly check out of their room in accordance with existing University procedures within the time constraints established by the Office of Student Conduct. As indicated in the occupancy agreement, the resident will be liable for the full room charge specified if a replacement assignment cannot be made by the Office of University Housing. The sanction conferred by the Office of Student Conduct may stipulate requirements that must be fulfilled for reinstatement into University housing.

Deferred loss of housing: Deferred loss of housing serves as a final warning that any further violation(s) of University policy obligates the University to consider Loss of Housing privileges as a primary response.

Ban from university housing/ban from residence halls: A student is prohibited from entering all or specific residential buildings, including fraternity/sorority properties for a designated period of time.

Housing reassignment: A student is involuntarily reassigned to a new campus location.

Restricted access: The residence hall visitation and guest privileges of the resident student are revoked for a designated period of time. Additionally, the student must sign in and out of the building in the Restricted Access Log each time the student enters or exits the building.

Disciplinary probation: Disciplinary Probation is a specific period of time during which the University provides the student or organization with the opportunity to prove that they will contribute in a positive manner to the University community. Should a student or organization violate University policies while on disciplinary probation, more severe Sanctions shall be imposed. Disciplinary probation will specify any restrictions with which the individual must comply, such as not representing the University in any extra-curricular activity or holding an office in any student group or organization.

Assignment of a constructive/educational task: A student is required to complete a task that benefits the individual, campus, or community. Examples include, but are not limited to, completing an educational module or class, performing community service, writing reaction or research papers, attending programs or lectures, or other educational Sanctions deemed appropriate by the Office of Student Conduct.

Hold on records: The enforcement of University policies may necessitate a hold on transcripts, grades, diplomas, or other official records pending the resolution of cases.

Restitution: The Student or student organization is required to make monetary

reimbursement for repair/replacement of property or service rendered to the University or to other persons, groups, or organizations for specified damages by a date designated by the Office of Student Conduct. These charges may not be in excess of the damage or loss incurred.

Disciplinary reprimand: The Student or student organization is informed that their actions were inappropriate and that better judgment is to be used in the future.

Other Sanctions may be imposed instead of, or in addition to, those specified here. More than one of the Sanctions listed above may be imposed for any single violation.

VII. Appeals

Any Party may appeal a dismissal of a Formal Complaint or any allegations therein, a Threshold Determination made by the Investigator, a Determination made following Adjudication, or a Sanction within ten (10) days of receiving written notice thereof. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

Upon receipt of an appeal, the other Party will be notified of the appeal in writing and will be provided five (5) days to respond in writing.

At the discretion of the Title IX Coordinator, or their designee, an appeal may be assigned to either an Appellate Adjudicator or an Appeal Board (collectively, the “Appellate Authority”). In either case, the Title IX Coordinator, or their designee, will ensure that the Appellate Authority is trained, neutral, impartial, and free from conflict, and that the Appellate Authority does not include any previous decision-makers or the Investigator.

The Appellate Authority shall hear appeals on the following grounds. Dissatisfaction with the outcome of the hearing alone is not grounds for appeal.

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the Determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or decision-maker(s) 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.
4. Unduly harsh Sanction: To determine whether the Sanction(s) imposed was appropriate for the violation of OED-3 of which the student was found in violation.

Appeals are not intended to be full re-investigations of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appellate Authority to substitute their judgment for that of the original hearing body, but rather the Appellate Authority may only make changes to the Determination when 1) at least one of the three specified

grounds for appeal is established; and 2) a clear error or an abuse of discretion is established.

The Appellate Authority shall, in consultation with the Title IX Coordinator, issue a written decision describing the result of the appeal and the rationale for the result simultaneously to the Parties within ten (10) days of receipt of the opposing Party's response to the appeal. The decision of the Appellate Authority is final.

Appendix B – Procedures for Resolving Reports Against Employees

I. Introduction

The University is committed to providing a prompt and equitable response to all reports and Formal Complaints of Prohibited Conduct under the Sexual Harassment and Misconduct Policy (Policy). The University's resolution processes for addressing Prohibited Conduct are grounded in the principles of support and fairness for all parties, including the provision of procedural protections that ensure notice; equitable opportunity to participate; and neutral and impartial Investigation, Resolution, and appeal procedures. The definitions for specific forms of Prohibited Conduct and other core concepts are included in [Appendix G – Glossary](#). This resolution process will be used to resolve Reports and Formal Complaints of Prohibited Conduct made against Employees.

II. Process Overview

A. Report

Any person may make a Report against any employee for alleged violation(s) of the University's Sexual Harassment and Misconduct Policy (OED-3). Reports should be referred to the Title IX Coordinator (or OED), who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence, and address its effects.

B. Initial Assessment

Upon receipt of a Report, the University will conduct an Initial Assessment of the matter and will promptly contact the Complainant and provide information about resources and options, including the process for filing a Formal Complaint and available Supportive Measures. The Complainant will be invited to meet with the Title IX Coordinator, or their designee, to learn more about Supportive Measures and the Formal Resolution Process and to discuss the Complainant's preferences for Resolution and Supportive Measures.

During the Initial Assessment, the University will:

- Evaluate whether the alleged conduct falls within the purview of this Policy;
- Assess appropriate Supportive Measures; and
- Evaluate the need for any Protective Measures, including Administrative Leave of a Respondent.

The Initial Assessment will consider the nature of the Report; the safety of the Complainant, any other individual, and the broader campus community; the Complainant's expressed preferences for Resolution and Supportive Measures; and the necessity for any Protective Measures, including Administrative Leave, to protect the safety of the Complainant or the University Community.

C. Preliminary Inquiry

When a Complainant is interested in participating in the University's Formal Resolution Process (to include Investigation and Adjudication or Alternative Resolution), an Investigator will meet with and interview the Complainant. The Investigator will review the information gathered during the interview with the Complainant and will assess whether the alleged conduct, if proved, would constitute a Policy violation. The Investigator will not make credibility determinations in conducting the Preliminary Inquiry.

If the Investigator determines that the reported behavior or conduct, if proved, would not constitute a Policy violation, the University will notify the Complainant and inform the Complainant of other options and resources available at the University or within the community, as appropriate. If the Investigator determines that the elements of a Policy violation have been raised, the Complainant may file a Formal Complaint.

D. Formal Complaint

Any University Community member may file a Formal Complaint for a violation of this Policy against any employee.¹⁴ In cases where a Complainant does not wish to file a Formal Complaint or in other circumstances, as appropriate, the Title IX Coordinator may, in their discretion, file a Formal Complaint against an employee for a violation of this Policy.

Where the University receives a request to file a Formal Complaint involving allegations that do not constitute Sexual Harassment as defined by the Federal regulations implementing Title IX, the Title IX Coordinator may, in their discretion, determine that it is not appropriate to pursue the Investigation and Adjudication process in certain circumstances and may decide to pursue an Alternative Resolution process as appropriate.

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication process, Alternative Resolution options, and available Supportive Measures. The written notice will include details regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the Parties are brought to the attention of the Investigator, the University will provide written notice of the additional allegations to the Parties.

At any time after a Formal Complaint is filed, either Party may request an Alternative Resolution. Each resolution process is guided by the same principles of fairness and respect for

¹⁴ The University will consider any request from an individual outside the University to file a Formal Complaint on a case-by-case basis after consideration of all the circumstances made known to the University, including: the definition of "Formal Complaint" provided in the implementing regulations published by the U.S. Department of Education's Office for Civil Rights; the effect of the alleged Prohibited Conduct on the University Community; the location of the alleged Prohibited Conduct; and the identities of the individuals alleged to have been involved.

all Parties.

Supportive Measures are available for all Parties, whether as Complainants or Respondents, to provide support and guidance throughout any process under OED-3. All Respondents will be presumed “not responsible” until a Determination is reached.

Dismissal of Formal Complaint

The Title IX Coordinator will determine whether the conduct alleged in the Formal Complaint falls within the scope of the Policy and the definitions of Prohibited Conduct. The Title IX regulations require the University to dismiss some or all of the allegations in the Formal Complaint related to Title IX Sexual Harassment if:

1. The conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment as defined in the Title IX regulations;
2. The conduct did not occur within the University’s education program or activity; or,
3. The conduct did not occur against a person in the United States.

This means that the University may be required by law to dismiss some or all of the allegations in the Formal Complaint under Title IX and provide the Parties notice of the dismissal and the opportunity to appeal that dismissal.

In the event of a mandatory dismissal required by the Title IX regulations, a matter may still proceed through the University’s Formal Resolution Process, so long as the remaining allegations set forth in the Formal Complaint, if proved, would constitute violations of this Policy.

In addition, the Title IX Coordinator may dismiss a Formal Complaint, at any stage of the process, in any of the following three circumstances:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by the University; or
3. Specific circumstances, including a Complainant’s decision not to respond to outreach by the Title IX Coordinator, prevent the University from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations therein.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any time in the process and will be communicated simultaneously to all Parties in writing. Either Party may challenge the dismissal of a Formal Complaint by notifying the Title IX Coordinator in writing of the challenge within five (5) business days of the decision being communicated. The other Party will be notified of the challenge. Challenges to dismissals will be review by [decision maker] within [x] days.

Title IX Coordinator Discretion to File a Formal Complaint

The Title IX Coordinator also has the discretion to file a Formal Complaint. In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a formal complaint by the Complainant, the Title IX Coordinator will consider the following factors:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the Report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's interest in the University not pursuing an Investigation or disciplinary action and the impact of such actions on the Complainant;
- Whether the University possesses other means to obtain relevant evidence;
- Fairness considerations for both the Complainant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The Title IX Coordinator may also re-open a Report under this Policy if any new or additional information becomes available, and/or if the Complainant later decides that they would like a Formal Resolution to occur.

In those instances when the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will notify the Complainant that the University intends to initiate an investigation. The Complainant is not required to participate in the Investigation or in any of the actions taken by the University.

The University's ability to Investigate and respond fully to a Report may be limited if the Complainant requests anonymity or declines to participate in an Investigation. The University will, however, pursue other steps to limit the effects of the reported conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the University will conduct an Investigation will be taken in connection with a Report of Prohibited Conduct will be made in a manner consistent with this policy.

Notice of Allegations

The University will promptly notify all Parties in writing of the filing of the Formal Complaint and will provide the Parties with information about the Investigation and Adjudication Process, Alternative Resolution options, and available Supportive Measures. The written notice will include:

- Information regarding the alleged Prohibited Conduct, including sufficient details – to the extent known – regarding the nature of the alleged Prohibited Conduct; the identities of the individuals involved; and the date and location of the alleged action(s)/incident(s). Should any of this information be unknown at the time a Formal Complaint is filed, and later becomes known, the University will provide updated written notice, as appropriate. Likewise, if additional allegations that are not included in the original notice provided to the Parties are brought to the attention of the Investigator, the University will provide notice of the additional allegations to the Parties.
- Notice of the University’s Resolution Processes;
- A statement that the Respondent is presumed not responsible for alleged Prohibited Conduct and that a Determination regarding responsibility will be made at the conclusion of the Investigation and Adjudication process;
- Advisement that a party may have an Advisor of their choice who may be, but is not required to be, an attorney and who may inspect and review evidence in the Investigation; and
- That knowingly making false statements or knowingly submitting false information during the Formal Resolution processes is prohibited under this Policy and the Student Code of Conduct.

At any time after a Formal Complaint is filed, either party may request an Alternative Resolution. Each Resolution Process is guided by the same principles of fairness and respect for all parties.

All Respondents will be presumed “not responsible” until a Determination is reached.

E. Advisors

The Complainant and Respondent may each have an Advisor of their choice present with them at any meeting, hearing, or interview. The Advisor may be, but is not required to be, an attorney. If a Party does not have an Advisor at the time of a hearing, the University will provide the Party with an Advisor for the purpose of conducting appropriate cross-examination during the hearing.

The Advisor may not provide opening or closing remarks during a hearing and may not speak on behalf of a Party during any hearing, meeting, or interview conducted under this Policy.

Advisors are expected to maintain the privacy of any records shared with them during the course

of any process under this Policy, and to not share information obtained during any Investigation or Adjudication outside of their role as an Advisor.

III. Alternative Resolution

Upon the filing of a Formal Complaint, the Complainant or the Respondent may request an Alternative Resolution. Participation in any Alternative Resolution processes must be voluntary and mutual, and may begin only after both Parties provide voluntary, informed, written consent to attempt Alternative Resolution.

The University reserves discretion in determining whether any given case is appropriate for Alternative Resolution. Alternative Resolution is not available in cases of alleged Sexual Harassment of a student by a University employee, and may be deemed inappropriate in other cases that include, for example: allegations of Prohibited Conduct involving penetrative acts; allegations of significant violence or threats of violence; instances in which the circumstances of the alleged Prohibited Conduct give rise to concerns that the Alternative Resolution process might be used to abuse, harass, intimidate, or manipulate a Party; or where the University has received more than one Report or Formal Complaint of Prohibited Conduct against the same Respondent under this Policy.

Alternative Resolution may encompass a broad range of conflict resolution strategies, including but not limited to a facilitated discussion between the Parties, with the assistance of the Title IX Coordinator or their designee; formal mediation between the Parties, conducted by the Title IX Coordinator or a trained designee; or targeted or broad-based educational programming or training. Both Parties will be provided with written notice disclosing the requirements of the Alternative Resolution process, including the right to withdraw from the process at any time prior to Final Resolution; any consequences resulting from participating in the Alternative Resolution process; the circumstances under which the Parties are precluded from requesting to resume the Investigation and Adjudication process with regard to the same allegations; and the records that will be maintained or could be shared as a result of participation in the process.

The Alternative Resolution process may be made available to the Parties at any point prior to a final Determination in the matter. The University will not compel a Complainant or a Respondent to engage in any form of Alternative Resolution. Participation in Alternative Resolution is voluntary at all times, and either Party can withdraw from the Alternative Resolution process and resume the Investigation and Adjudication process at any point prior to Final Resolution of the matter. Any notes taken or information disclosed during an Alternative Resolution process will not be shared or used outside of the Process, except to the extent that they may be relevant or directly related to a subsequent Investigation and Adjudication conducted under this Policy, as required by the applicable federal regulations.

Alternative Resolution, even if requested, will not be used in cases involving allegations that an employee sexually harassed a student.

If the Parties reach an agreement during the Alternative Resolution process, they will be asked to sign a written agreement, or Final Resolution, outlining the terms of the agreement. The Final Resolution indicates the conclusion of the Alternative Resolution process and will be maintained

by the Office of Equality and Diversity for the sole purpose of ensuring the agreement terms are upheld and met and any supportive services, remedies and/or sanction(s) agreed upon are upheld by the Parties, as appropriate. After a matter has reached Final Resolution, the same matter cannot proceed through the Investigation and Adjudication process.

Alternative Resolution processes will typically be completed within sixty (60) days. The time frame may be extended for good cause to accommodate the availability of the Parties, to provide reasonable accommodations, to address University breaks or vacations, or for other legitimate reasons. Any extension of the time frame, and the reason for the extension, will be shared with the Parties in writing.

IV. Investigation

A. Time Frame

The Investigation and Adjudication process will typically be completed within one hundred and twenty (120) days of the filing of the Formal Complaint, although the complexity of a Report or other factors may require a longer time frame. The time frame may be extended for good cause to ensure the integrity and completeness of the Investigation, to accommodate the availability of witnesses, to provide reasonable accommodations, to address University breaks or vacations, or other legitimate reasons. In cases where there is a concurrent law enforcement investigation, the University may temporarily delay the investigation as appropriate, which may result in the time frame being extended. Any extension of the timeframes, and the reason for the extension, will be shared with the Parties in writing.

B. Consolidation of Multiple Formal Complaints

The Title IX Coordinator, or their designee, has the discretion to consolidate multiple Formal Complaints against more than one Respondent, by more than one Complainant against one or more Respondents, or by one Party against the other Party, into one Investigation if the allegations arise out of similar facts or circumstances. In deciding whether to consolidate multiple Formal Complaints into a single Investigation, the Title IX Coordinator will consider whether the evidence related to each Formal Complaint would be relevant in reaching a Determination with respect to the others.

C. Investigator

As described in OED-3, the University, through the Title IX Coordinator, will designate an Investigator, or Investigators, of its choosing. Any Investigator used by the University, whether internal or external, must have specific training and experience investigating allegations of sexual harassment and sexual misconduct. The Investigation will be fair, impartial, and thorough, and all Parties and witnesses will be treated with the appropriate sensitivity and respect.

D. Participation of the Parties

Complainants and Respondents are encouraged, but never pressured, to participate in the University's Investigation and Adjudication process so that the facts of each Report can be

explored, and responsible Parties held accountable for their misconduct, if warranted. The University will make multiple good faith attempts to contact the Parties to encourage their participation in the Investigation and Adjudication process.¹⁵ If a Party is unresponsive to multiple good faith attempts to contact them, the Investigator will conduct the Investigation without the participation of the Party. A Party who elects not to participate in any one phase of an investigation will still be notified of any progress or developments in the Investigation and Adjudication process as they occur, and will be provided with an opportunity to participate in subsequent phases of the process.

If a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw a Formal Complaint, or any allegations therein, the University will make every reasonable effort to comply with that request. As explained more fully in OED-3, there may be exceptional circumstances when the University decides to proceed with the Investigation and Adjudication process despite the request of a Complainant. The Complainant, however, will not be required to participate in the process.

E. Presumption of Non-Responsibility

All Respondents will be presumed “not responsible” until a Determination is reached in a matter.

F. Investigation Process

The first step of an Investigation will usually be a preliminary interview of the Complainant by the Investigator. The Investigator will then coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the Determination. Before any interview with a Party, the Investigator will provide to the Party a written notice of the date, time, location, participants, and purpose of the interview and will allow sufficient time for the Party to prepare for the interviews. Both Parties will have an equal opportunity to provide the Investigator with evidence that is directly related to the allegations, whether inculpatory or exculpatory, and the names of possible witnesses, including expert witnesses.

The Investigator is obligated to collect all evidence directly related to the allegations, regardless of whether or not the evidence is ultimately deemed relevant and included in the Investigative Report. The Investigator will gather any available physical or medical evidence, including documents, communications between the Parties, and other electronic records, to the extent they are directly related to the allegations.

The Investigator will gather prior or subsequent relevant allegations of, or Determinations of responsibility for, misconduct by the Respondent. Evidence of an occurrence or occurrences of Prohibited Conduct or other relevant behavior that establishes a pattern of conduct, establishes identity, motive, intent, or opportunity may be admissible during the Investigation and Adjudication process. Evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior Determination of a policy

¹⁵ Communications regarding the processes under this Policy will typically be sent via a Party’s University e-mail address.

violation, may be admissible. Information or evidence that relevant evidence was destroyed is admissible and may be considered in assessing the credibility of the Parties and the weight of the evidence.

At the conclusion of the fact gathering phase of the Investigation, the Investigator will prepare an Investigative Report that fairly summarizes the relevant evidence.

G. Inspection of Evidence and Review of Investigative Report

Upon the conclusion of an Investigation, the Parties will be given an opportunity to inspect and review a draft Investigative Report and any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint. Upon receiving the draft Investigative Report and evidence, the Parties will have ten (10) days to submit a written response, including any additional information or comment, or request that additional investigative steps be taken. At the conclusion of the 10-day period, the Investigator will review any responses received from the Parties, and will conduct any additional investigative steps, as needed, before completing a final Investigative Report.

H. Statement on Relevance

“Relevant” evidence and questions refer to any questions and evidence that tend to make an allegation of Sexual Harassment or Misconduct more or less likely to be true. Relevant evidence includes both inculpatory and exculpatory evidence. Not all evidence gathered by the Investigator that is directly related to the allegations in the Formal Complaint will be considered relevant – including, for example, information that is privileged but for which the individual holding the privilege has not submitted a written waiver; or prior sexual history of a Complainant, unless offered to demonstrate consent or that someone other than Respondent committed the alleged Prohibited Conduct. The Investigator will determine the relevancy of evidence for inclusion in an Investigative Report.

Relevant evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Investigation and Adjudication process:

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege, including medical, psychological or similar records, unless the person holding such privilege has waived the privilege by providing voluntary, written consent; and
- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

I. Threshold Determination

After considering and incorporating any additional relevant information or comments made by the Parties, the Investigator, in consultation with the Title IX Coordinator, will make a Threshold Determination as to whether the elements of a Policy violation have been sufficiently raised to proceed to Adjudication. In reaching a Threshold Determination, the Investigator may consider:

- 1) Whether the Prohibited Conduct alleged in the Formal Complaint, if assumed to be true, would constitute a violation of OED-3; and
- 2) Whether a reasonable person could conclude, based on the information gathered in the Investigation, that a violation of OED-3 had occurred.

Upon the conclusion of an Investigation, both Parties will be advised in writing of the Investigator's Threshold Determination. If the Threshold Determination is that the elements of a Policy violation have not been raised, or that a reasonable person could not conclude, based on the information gathered in the Investigative Report, that a Policy violation occurred, either Party may appeal the Threshold Determination under the Appeals procedures set forth in this Appendix (See Section VI).

If it is determined that the elements of a Policy violation have been raised or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, each Party will be given an opportunity to submit written information for consideration in determining appropriate Remedies and Sanctions, should the Respondent be found responsible for the alleged Prohibited Conduct during any subsequent Adjudication process. A Complainant may submit an impact statement, and a Respondent may submit a mitigation statement. These statements will be considered as part of the sanctioning process only and will not be made available to any Adjudicator(s) until or unless a Respondent has been determined to be responsible for alleged Prohibited Conduct.

In addition, if the Threshold Determination is that the elements of a Policy violation have been raised, or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, the Title IX Coordinator will meet with each Party to discuss next steps in the process.

V. Adjudication

If the determination has been made that the elements of a Policy violation have been raised, or that a reasonable person could conclude, based on the information gathered in the Investigation, that a Policy violation occurred, the Title IX Coordinator and a representative from Human Resources will meet with each Party to discuss next steps. During this meeting, the Respondent may either request a hearing or accept responsibility for violating this Policy.

A. Acceptance of Responsibility

Upon meeting with the Title IX Coordinator, the Respondent may choose not to contest the allegations and give up the right to a hearing by accepting responsibility for committing a Policy violation. If a Respondent accepts responsibility, the Complainant will be notified in writing,

and both Parties will have the opportunity to submit written information for consideration by the Title IX Coordinator, a representative from Human Resources, the Respondent's supervisor and/or other appropriate administrators with oversight over the relevant unit. A Complainant may submit an impact statement, and a Respondent may submit a mitigation statement.

The Office of Human Resources, in consultation with the Title IX Coordinator, will impose appropriate Remedies and Sanctions (see below for guidelines and list of permissible Sanctions). The Complainant and Respondent will be simultaneously notified of the Remedies and Sanctions and rationale therefor in writing, and this decision may only be appealed by both Parties based on Severity of Sanction. If there is no appeal by either Party, the Remedies and Sanctions imposed by the Office of Human Resources will be final.

B. Choice of Adjudicator

In advance of a hearing, the Title IX Coordinator shall designate an Adjudicator, whether internal or external to the University, who is trained, neutral, impartial, and free from conflict.

In designating an Adjudicator, the Title IX Coordinator will consider, among other factors, the nature of the allegations, the complexity of the facts, whether there is any issue of conflict of interest, the availability of trained internal Adjudicators, whether the University is in session or on break, or any other relevant factors.

The Adjudicator will be supported by the Title IX Coordinator, or their designee, and a designee of the Office of Human Resources, who will be present during the hearing to serve as a resource for the Adjudicator on issues of policy and procedure, and to assure that policy and procedure are appropriately followed throughout the hearing.

C. Hearing Procedures

The Complainant, Respondent, Advisors, and witnesses will be notified in writing as to the date, time, and location of the hearing, as well as the identity of the Adjudicator(s) assigned to their case. Either Party may challenge or object to the assignment of any Adjudicator on the basis of a conflict or bias. Challenges to Adjudicator assignments must be made in writing to the Title IX Coordinator at least six (6) days prior to a hearing, in order to provide an opportunity for an alternate Adjudicator to be identified without causing a delay in the hearing process. Hearings are not open to the public.

The Title IX Coordinator, or their designee, will provide the Investigative Report to the designated Adjudicator at least five (5) days prior to the hearing. The Complainant, the Respondent, and their Advisors will be provided with the Investigative Report, for their review, at least ten (10) days prior to the hearing.

The Parties are required to inform the Title IX Coordinator, or their designee, of their Advisor of choice who will attend the hearing at least five (5) days in advance of the hearing. If a Complainant or Respondent notifies the Title IX Coordinator, or their designee, that they do not have an Advisor for the hearing, the University may reschedule the hearing and will provide the Party with an Advisor to conduct cross-examination on their behalf at the hearing. The Title IX Coordinator, or their designee, may reschedule the hearing to ensure that the Advisor has

adequate time to prepare for the hearing.

Unless the Complainant or Respondent has declined to participate in the Investigation and Adjudication process, both the Complainant and Respondent will be expected to appear before the Adjudicator. The Complainant and the Respondent may appear at the live hearing in person or virtually through a remote electronic method.

There will be a single verbatim audio recording of all hearings before the Adjudicator, which will be the sole property of Drexel University. In the event of an appeal, the recording will be made available to the Parties for inspection and review upon request. This recording will be maintained for a period of seven (7) years.

The general hearing procedure is as follows:

- Introductions of all attendees
- Overview of Investigation by Investigator
- Questions posed to Investigator by Advisors and Adjudicator
- Brief introductory remarks from the Complainant
- Brief introductory remarks from the Respondent
- Questions posed to Complainant by Respondent's Advisor and Adjudicator
- Questions posed to Respondent by Complainant's Advisor and Adjudicator
- Questions posed to Complainant's Witnesses by Respondent's Advisor and Adjudicator
- Questions posed to Respondent's Witnesses by Complainant's Advisor and Adjudicator
- Short recess
- Brief concluding remarks by Complainant
- Brief concluding remarks by Respondent

The hearing procedure may depart from this general order, depending on the circumstances of each case, but in no instance will either Party be deprived of an opportunity to observe substantive portions of the hearing; to ask or answer questions to or from the other Parties, witnesses, or the Adjudicator; or to provide introductory or concluding remarks.

D. Cross-Examination

During the hearing, each Party's Advisor may ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally. The Parties may not question each other or other witnesses directly but may raise questions to be asked of the other Party and witnesses through their Advisor.

Before any Party or witness answers a cross-examination or other question, the Adjudicator must

first determine whether the question is relevant and explain any decision to exclude a question as irrelevant. The Adjudicator may consult with the Title IX Coordinator or designee regarding any questions posed. If the Adjudicator determines that a question is irrelevant, the Party or witness to whom the question was posed will be directed not to answer the question.

Examples of irrelevant information that may be excluded include, but are not limited to, information protected by a legally recognized privilege; evidence about a Complainant's prior sexual history; and Party or witness statements that have not been subjected to cross-examination at the hearing.

If a Party or witness does not submit to cross-examination at the hearing, the Adjudicator must not rely on any prior statement, either written or oral, of that Party or witness in reaching a Determination; provided however that the Adjudicator cannot draw an inference about the Determination based solely on a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

A Party's Advisor may appear and conduct cross-examination even when the Party who they are advising does not appear. Similarly, where one Party does not appear and that Party's Advisor of choice does not appear, the University will designate an Advisor to cross-examine the other, appearing Party on behalf of the non-appearing Party, resulting in consideration of the appearing Party's statements but not the non-appearing Party's statements.

Following cross-examination of the Parties and witnesses by Advisors, the Adjudicator may ask questions of the Parties and witnesses to seek relevant evidence and to follow up on questions asked by the Advisors.

VI. Determination

The Adjudicator will objectively evaluate all relevant evidence and will reach a Determination based upon a preponderance of the evidence standard. Once the Adjudicator reaches a Determination, both Parties will be simultaneously notified in writing of the outcome, including any Remedies or Sanctions being levied in connection with the Determination.

If the Determination has been made that a policy violation has occurred, the Title IX Coordinator will coordinate any Remedies and Sanctions with Human Resources and the Respondent's supervisor and/or other appropriate administrators with oversight over the relevant unit.

If a faculty member is found by OED to have violated this Policy, the Dean of the College, School, or Center and the Department Head in which the faculty member has their primary appointment, in consultation with Human Resources, will determine the appropriate Remedies and Sanctions, which may include disciplinary action, to address the violation and to prevent its reoccurrence. The Dean of the relevant College, School, or Center may also consult with the Provost, as needed.

A. Guidelines for Imposing Remedies and Sanctions

The University will treat Complainants and Respondents equitably by providing Remedies to

both Complainants and Respondents, as appropriate, where a Determination of responsibility has been made against the Respondent. Remedies and Sanctions will be designed to restore or preserve equal access to the University's education programs, employment opportunities, or activities for Complainants, and may include, but are not limited to, the same individualized services described in this Policy as Supportive Measures.

Remedies and Sanctions also include disciplinary measures. The University considers the disciplinary measures listed below to be guidelines when addressing Sexual Harassment and Sexual Misconduct Policy violations. Each incident is reviewed on an individual basis.

In determining the appropriate Remedies and Sanctions, the University shall consider the following factors:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant or other appropriate parties;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful educational and employment environment;
- protection of the University Community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Disciplinary measures that may be imposed under this policy include:

Warning: Notice, in writing, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

Educational/Training Requirements: Completion of training, projects, programs, or requirements designed to help the employee manage behavior and understand why it was inappropriate; includes appropriate and relevant community service opportunities.

Formal Performance Improvement Plan: see Performance Improvement Process Policy, H.R. 43.

Restitution: Repayment to the University or to an affected Party for damages resulting from the Policy violation.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the employee's file. Conditions for return to work may be specified in the suspension notice.

Termination: Permanent termination of employment status and exclusion from University premises, privileges, and activities. This action will be permanently recorded in the employee's file.

Other disciplinary measures may be imposed instead of, or in addition to, those specified here. More than one of the disciplinary measures listed above may be imposed for any single violation. The University may be limited in its ability to issue disciplinary measures in cases where the Respondent is no longer affiliated with the University.

VII. Appeals

Any Party may appeal a dismissal of a Formal Complaint or any allegations therein, a Threshold Determination made by the Investigator, a Determination made following adjudication, or a Sanction within ten (10) days of receiving written notice thereof. The appeal shall consist of a plain, concise and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

Upon receipt of an appeal, the other Party will be notified of the appeal in writing and will be provided five (5) days to respond in writing.

At the discretion of the Title IX Coordinator, or their designee, an appeal may be assigned to either an Appellate External Adjudicator or a senior University administrator (collectively, the "Appellate Authority"). In either case, the Title IX Coordinator, or their designee, will ensure that the Appellate Authority is trained, neutral, impartial, and free from conflict, and that the Appellate Authority does not include any previous decision-makers or the Investigator.

The Appellate Authority shall hear appeals on the following grounds. Dissatisfaction with the outcome of the hearing alone is not grounds for appeal.

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the Determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or decision-maker(s) 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.

Appeals are not intended to be full re-investigations of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appellate Authority to substitute their judgment for that of the original Adjudicator, but rather the Appellate Authority may only make changes to the Determination when 1) at least one of the four specified grounds for appeal is established; and 2) a clear error or an abuse of discretion is established.

The Appellate Authority shall, in consultation with the Title IX Coordinator, issue a written decision describing the result of the appeal and the rationale for the result simultaneously to the

Parties within ten (10) days of receipt of the appeal. The decision of the Appellate Authority is final.

Appendix C - Examples of Prohibited Conduct

Forms of Sexual Harassment and Prohibited Conduct: In some cases, Sexual Harassment or other Prohibited Conduct is obvious and may involve an overt action, a threat, or reprisal. In other instances, Sexual Harassment can be subtle and indirect, with a coercive aspect that is unstated. Sexual Harassment and other forms of Prohibited Conduct will be evaluated on a case-by-case basis and can take many forms:

- Sexual Harassment can occur between equals (e.g., student to student, professional staff to professional staff, faculty member to faculty member, visitor/contracted employee to professional staff) or between persons of differing power status (e.g. supervisor to subordinate, faculty member to student, coach to student-athlete). Although sexual harassment often occurs in the context of an exploitation of power by the individual with the greater power, a person who appears to have less power in a relationship can also commit Sexual Harassment (e.g., student harassing faculty member).
- Sexual Harassment can be committed *by or against* an individual or may be a result of the collective actions *by or toward* an organization or group.
- Sexual Harassment can be committed by an acquaintance, a stranger, or someone with whom the Complainant has a personal, intimate, or sexual relationship.
- Sexual Harassment can occur *by or against* an individual of any sex, gender identity, gender expression or sexual orientation.

Examples of behavior that might be considered **Sexual Harassment** include, but are not limited to:

- Unwanted or inappropriate sexual innuendo, propositions, sexual attention, or suggestive comments; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality or gender; insults and threats based on sex or gender; and other verbal, written, or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome;
- Non-academic display or circulation of electronic or written materials or pictures degrading to an individual(s) or gender group (it is expected that instructors will offer appropriate warning and accommodation regarding the introduction of explicit and triggering materials used);
- Inappropriate or unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or intentionally brushing against an individual's body;
- Undue and unwanted attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures;
- Pressuring or physically coercing an individual to become involved in sexual activity or punishing a refusal to respond or comply with sexual advances;
- Using a position of power or authority to threaten or punish, either directly or by implication, for refusing to tolerate harassment or submit to sexual activity, or for

reporting harassment;

- Making a promise of reward in return for sexual favors;
- Sexually assaulting an individual;
- Abusive, disruptive, or harassing behavior, verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender and/or in the context of intimate partner violence; and,
- Engaging in demeaning verbal and other expressive behavior of a sexual or gendered nature in instructional settings.

Examples of **Sexual Exploitation** can include, but are not limited to, the following behaviors:

- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images via any medium, without the knowledge and consent of all parties involved.
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or publication or sharing of such without the knowledge and consent of all parties involved.
- Spying on others who are in intimate or sexual situations (i.e. voyeurism).
- Disrobing of another without their consent.
- Knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge.
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.
- Distributing intimate or sexual information about another person without that person's consent.

Appendix D - Law Enforcement and Medical Resources

Law Enforcement: The University recognizes that in an emergency situation where a person’s health or safety is at risk, trained police officers are in the best position to quickly and effectively respond. We encourage all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct to address any concerns about personal safety and physical and emotional well-being. This allows for the preservation of evidence and the ability to begin a timely investigative and remedial response. The University will assist any Drexel University Community member to get to a safe place and will provide transportation to the hospital or local law enforcement.

Not all sexual misconduct prohibited by this Policy constitutes criminal behavior. Law enforcement authorities can assist in determining whether the conduct experienced was criminal in nature and warrants a criminal complaint. If the incident occurred off campus, an officer can assist in contacting the appropriate law enforcement agency.

Any member of the University Community who has experienced or is aware of an incident of sexual harassment or misconduct is encouraged to seek the assistance of the Drexel University Department of Public Safety or call 911. A Report can be made 24 hours a day, 7 days a week.

Drexel University Department of Public Safety
3201 Arch Street, Third Floor
Philadelphia, PA 19104

215-895-2222 (Emergency) or call 911
TTY: 215.571.4141

Medical Treatment: Students and employees are strongly encouraged to seek medical treatment. A medical provider can provide emergency and/or follow-up medical services, and the opportunity to discuss any health care concerns in a confidential medical setting. A medical exam following a sexual assault has two goals: first, to diagnose and treat the full extent of any injury or physical effect (sexually transmitted infection or pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence.

<p>Special Victims Unit of the Philadelphia Police Department</p>	<p>215-685-3251/2/3</p>
<p style="text-align: center;">The Philadelphia Sexual Assault Response Center (PSARC)</p> <p>The mission of PSARC is to provide medical care and forensic examinations to victims of sexual assault in a private and personal setting designed to minimize stress or further trauma to the victim. PSARC has specially trained nurses on-call 24 hours a day, 7 days a week</p>	<p>300 East Hunting Park Avenue Philadelphia, PA 19125 215-800-1589</p>

<p>who will perform a rape exam, collect evidence, and provide advice and counseling referrals to victims of rape and sexual violence. The PSARC on-call response is activated through the Philadelphia Police Special Victims Unit.</p>	
<p>Jefferson University Hospital, Emergency Department & Sexual Assault Center</p>	<p>132 South 10th Street (On the corner of 10th and Sansom Streets) 215-955-6840 (Emergency)</p>

Appendix E - Campus and Community Resources

I. Campus Resources

The University is committed to treating all individuals with dignity, care, and respect. A Complainant, Respondent, or any other University Community member impacted by Prohibited Conduct will have equal access to support and resources through the University, including but not limited to, counseling services through the Counseling Center (in the case of students) or through the Employee Assistance Program (in the case of employees). The University recognizes that any individual involved in an incident of sexual harassment or sexual misconduct may have questions or concerns about the allegations, their options, and the processes outlined in this Policy, and we encourage University Community members to seek the support of the campus and community resources listed below. The University's Title IX Coordinator and Deputy Title IX Coordinators can provide guidance in making decisions and obtaining information about available resources. Resources and support are available regardless of whether a Report is filed or the Formal Resolution Process is pursued, and individuals are encouraged to use available resources, regardless of whether the incident occurred recently or in the past.

A. Confidential Resources and Support

The University encourages all University Community members to report incidents of sexual harassment and sexual misconduct. The University recognizes, however, that not every individual will choose to make a Report to the University or to local law enforcement. Regardless of an individual's decision about making a Report to the University, the University offers several confidential resources to students, professional staff, and faculty.

Individuals seeking to talk to someone about an incident of sexual harassment or sexual misconduct in a confidential manner, without making a Report to the University or triggering any action by the University, may utilize the following confidential medical, mental health, and clerical resources. The confidentiality of these resources is statutorily protected, such that they are prohibited from releasing an individual's information without that individual's express consent (except under limited circumstances that pose an imminent danger to the individual or to others.)

STUDENTS

Counseling Center

Creese Student Center
3210 Chestnut Street, Suite 201
Phone: (215) 895-1415

Students who have experienced sexual harassment or sexual misconduct and those who have been accused of such conduct may discuss their situations confidentially with counselors at the Counseling Center. An individual's conversations with University counselors will not be disclosed to anyone else in the University, except in cases of a threat of imminent physical harm.

Student Health Center

University City Science Center
3401 Market Street, Suite 105B
Phone: (215) 220-4700

The University encourages any individual who believes that they have been the victim of sexual misconduct to seek medical treatment. The Drexel Student Health Center (DSHC) is staffed by faculty physicians and nurse practitioners from the Drexel University College of Medicine Department of Family and Community Medicine. DSHC provides a range of health services in a confidential environment.

Pastoral Counselors affiliated with the Office Spiritual and Religious Life

James E. Marks Intercultural Center
3225 Arch Street, Basement Level
<https://drexel.edu/studentlife/diversity/spiritual-and-religious-life/>
Phone: (215) 895-2501

Pastoral Counselors provide essential support to the students, faculty, and professional staff at Drexel University in the expression, understanding and practice of faith. Pastoral Counselors currently affiliated with the University include professional religious staff from Open Door Christian Community, Baptist Campus Ministries, Hillel of Greater Philadelphia, and Newman Catholic Campus Ministry.

EMPLOYEES

Employee Assistance Program

Phone: (888) 628-4824

Employees may also receive confidential counseling services through the Employee Assistance Program. The Employee Assistance Program, which is administered by Lincoln Financial Group, provides guidance and counseling for faculty and professional staff. For access to confidential, 24/7 counseling, please call Lincoln Financial Group's toll-free number (1.888.628.4824) or visit <https://drexel.edu/hr/benefits/other-benefits/employee-assistance-program/> to learn more.

Drexel Medicine University City

Phone: (215) 220-4720

Located at the University City Science Center at 34th & Market Street, adjacent to the Drexel Student Health Center, the medical practice is staffed by faculty physicians from Drexel University College of Medicine's Department of Family, Community & Preventive Medicine. For questions or to schedule an appointment, call 215-220-4720 or visit the website at <http://www.drexel.edu/now/features/archive/2013/January/Drexel-Medicine-University-City/>

B. Non-Confidential Campus Resources

In addition to the confidential resources listed above, all Drexel community members have

access to further resources at the University that can assist an individual who has concerns about sexual harassment or sexual misconduct. The professional staff affiliated with the departments listed below are trained to support individuals affected by sexual harassment or sexual misconduct and to work with the University’s Title IX Coordinator to provide a consistent University response and promote a safe and healthy educational and employment environment. While not bound by confidentiality, these resources will maintain an individual’s privacy and will only share information about a matter to the extent necessary for the University’s resolution of a matter.

Office of Equality & Diversity
 James E. Marks Intercultural Center
 3225 Arch Street

Drexel University Department of Public Safety
 3201 Arch Street, Third Floor
 215-895-2222 (Emergency)
 911 (Emergency)

Title IX Deputies and Liaisons

The Title IX Coordinator, Deputy Title IX Coordinators, and the Title IX Liaisons are knowledgeable about, and trained in, the dynamics of sexual harassment and sexual misconduct, applicable state and federal laws and regulations, and applicable University policies.

Title IX Coordinator	
Paul Apicella	Office of Equality & Diversity James E. Marks Intercultural Center 3225 Arch Street, Suite 011 (215) 895-1405 pwa29@drexel.edu
Deputy Title IX Coordinators	
Kiara Allison	kfa25@drexel.edu
Lindsay Kenney	lrk45@drexel.edu
Lindsay O’Brien	lco33@drexel.edu
Zoe Reilly	zr63@drexel.edu
	Office of Equality & Diversity James E. Marks Intercultural Center 3225 Arch Street, Suite 011 (215) 895-1405

The University's Title IX Coordinator and Deputy Title IX Coordinators work closely with Title IX Liaisons throughout the University to ensure support and equity among all University policies.

Title IX Liaison for Athletics

Laura White

Associate Athletic Director
3141 Chestnut Street
(215) 895-1417

ludwicle@drexel.edu

Title IX Liaisons at DUCOM

Dr. Chava Hurley

Program Director, Master of Science in Medical Science
245 N. 15th Street
New College Building, Room 4215
(215) 762-4096

Karen.Hurley@DrexelMed.edu

Dr. Amy Fuchs

Senior Associate Dean for Student Affairs
(215) 762-6555

Amy.Fuchs@DrexelMed.edu

II. Community Resources

Students and employees are also encouraged to access resources in the local community. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in navigating the criminal justice system. All individuals are encouraged to utilize the resources best suited to their needs, whether on or off campus. In general, off campus resources can provide assistance to individuals wishing to make a Report to the University, but will not notify the University without the consent of the Complainant. See the University's Title IX Resource Page at <http://www.drexel.edu/titleix> for more information.

Appendix F - Statements on Violence, Consent, and Incapacitation

Statement on Violence: Drexel University promotes a safe and inclusive environment where violence in any form is not tolerated. Accordingly, responding to violence with violence may also constitute a violation of this Policy, unless such violence is committed in necessary, proportional self-defense.

Statement on Consent and Coercion: Engaging in sexual activity without consent violates University policy and may result in criminal and/or civil liability.

For purposes of this Policy, **consent is a freely and affirmatively communicated** willingness to participate in sexual activity or behavior, expressed either by words or clear, unambiguous action. Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. For this reason, relying on non-verbal communication can lead to misunderstandings.

Consent must be present throughout the sexual activity. At any time, a participant can communicate that they no longer consent to continuing the activity. If at any time it is reasonably apparent that either party is hesitant, confused, or uncertain, sexual activity should stop unless and until mutual verbal consent to continue is given. If there is continued confusion or a question as to whether any participant has consented or continues to consent to sexual activity, it is essential that the participants stop the activity to clearly resolve the confusion or question. Once withdrawal of consent has been expressed, sexual activity must cease.

The existence of a **current or previous dating relationship** between the persons involved is **not sufficient**, by itself, to provide the basis for an assumption of consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.

Consent is not effective if it results from the **use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will** to choose whether or not to have sexual contact.

Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, severe and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.

Statement on Incapacitation and Alcohol or other Drugs: An individual who is incapacitated is not able to make rational, reasonable judgments and therefore is incapable of giving consent.

Incapacitation is the inability, temporarily or permanently, to give consent, because the

individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.

The University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and/or drugs may impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. From the perspective of the Complainant, the use of alcohol or drugs can limit a person's ability to freely and clearly give consent. From the perspective of a Respondent, the use of alcohol or drugs can create an atmosphere of confusion over whether or not consent has been freely and clearly sought or given. The perspective of a reasonable person will be the basis for determining whether a Respondent should have been aware of the extent to which the use of alcohol or drugs impacted a Complainant's ability to give consent.

There may be circumstances where an individual while under the influence of drugs and/or alcohol appears to have the ability to give consent at the time of a sexual encounter but later due to a condition known as "Blackout" is unable to recall or remember the details of such an encounter. In determining whether that individual appeared to have the ability to give consent, the reasonable person standard described above will still control.

Being intoxicated or impaired by drugs or alcohol is never an excuse for Prohibited Conduct and does not diminish one's responsibility to obtain consent to engage in sexual activity.

Appendix G - Glossary

- *Adjudicator* means a person or persons granted the authority to make a Determination regarding the responsibility of a Respondent for allegations raised in a Formal Complaint pursuant to this Policy.
- *Advisor* means a person chosen by a Party or appointed by the University to accompany the Party to any meeting, interview, or hearing related to the Initial Assessment, Preliminary Inquiry, or Formal Resolution Process, to advise the Party on those processes, and to conduct cross-examination on behalf of the Party at a hearing, if any.
- *Alternative Resolution* is the process available for resolving a matter through the Formal Resolution Process without proceeding to Investigation and Adjudication. Alternative Resolution may take a variety of forms, including but not limited to a facilitated discussion, formal mediation between the parties, targeted or broad-based educational programming or training.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct, as defined in this Policy, or the victim of Retaliation for engaging in a protected activity.
- *Conduct Standards Board* means a panel of trained faculty and professional staff who have been selected to serve as neutral representatives of the University in making Determinations of responsibility in cases of alleged violation(s) of this Policy and recommending Sanctions to be implemented following any such Determinations.
- *Confidential Employee* means any University employee who is a licensed medical, clinical, or mental health professional, when that person is providing services to a patient or client who is a University student or an employee, or any other employee explicitly designated as a Confidential Employee by the University.
- *Consent* means freely and affirmatively communicated willingness to participate in sexual activity or behavior, expressed either by words or clear, unambiguous action. For more detail, see Appendix F.
- *Day* means a business day when the University is in normal operation.
- *Determination* means a conclusion by the preponderance of the evidence as to whether there is sufficient information to conclude that the conduct alleged occurred as alleged and, if so, whether such alleged conduct constitutes a violation of University Policy.
- *Employee* refers to both University professional staff and faculty members.
- *Final Resolution* refers to a written document, signed by the parties, outlining the terms of any agreement reached during the Alternative Resolution Process.
- *Formal Complaint* means a document signed by a Complainant or the Title IX Coordinator alleging sexual harassment or sexual misconduct or Retaliation, against a Respondent and requesting that the recipient investigate the allegation. A Formal Complaint is required in order to begin participation in the Formal Resolution Process.

- *Formal Resolution Process* is an umbrella term that refers to two paths available to Parties for resolving matters after a Formal Complaint is filed: (1) Alternative Resolution or (2) Investigation and Adjudication.
- *Initial Assessment* means an evaluation conducted by the Title IX Coordinator or a Deputy Title IX Coordinator, upon receipt of any Report alleging sexual harassment or sexual misconduct under this Policy, to determine whether the alleged conduct falls within the purview of this Policy.
- *Investigation and Adjudication* is one path of the two paths available to Parties for proceeding through the Formal Resolution Process, which entails an Investigation conducted by a trained Investigator, a live hearing in front of an Adjudicator or Conduct Standards Board, and a Determination as to whether Respondent is responsible for a Policy violation.
- *Investigator* means the person(s) charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into an Investigative Report and file of evidence directly related to the allegations raised in the Formal Complaint.
- *Investigative Report* means a written document prepared by the Investigator that fairly summarizes all relevant evidence collected and reviewed during the course of an Investigation.
- *Party* means the Complainant or Respondent.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Policy* means Drexel University's OED-3 Policy, the University's Sexual Harassment and Sexual Misconduct Policy.
- *Preliminary Inquiry* means an evaluation by the Title IX Coordinator or a Deputy Title IX Coordinator to determine whether the alleged conduct, if proved, would constitute a Policy violation.
- *Protective Measure* means measures designed to limit contact between the Respondent and Complainant, or between the Respondent and others who have been or may be impacted by the alleged conduct, which may include the University Community at large.
- *Remedies* are measures directed toward the Complainant and/or the University Community to address safety, prevent recurrence, and restore equal access to the University's programs and activities after a Respondent is found to have violated this Policy.
- *Report* means notification, in any form, of any alleged violation of this Policy received by or brought to the attention of the University's Title IX Coordinator or Drexel's Office of Equality and Diversity.
- *Resolution* means the result of a Formal Resolution Process.
- *Respondent* means an individual who has been Reported to be the perpetrator of Prohibited Conduct, as defined in this Policy.

- *Responsible Employee* means an employee of the University who is obligated to share knowledge, notice, and/or reports of harassment, discrimination, misconduct, and/or retaliation with the Office of Equality and Diversity.
- *Retaliation* means any adverse action taken against a person or group for making a good faith Report of Prohibited Conduct or participating, or choosing not to participate, in any process or proceeding under this Policy.
- *Sanction* means a consequence imposed by the University on a Respondent who is found to have violated this Policy.
- *Supportive Measure* means non-disciplinary, non-punitive, individualized services or actions that are taken or provided, free of charge, to all parties and witnesses. Supportive Measures can be provided or considered even if no Formal Complaint is filed with the University. Supportive Measures may be designed to address individual safety and well-being and to promote fair access to adjudicatory and resolution processes. In determining appropriate Supportive Measures, the University is committed to maintaining fairness for all parties and to balancing the needs and interests of the individuals involved with the safety of the community as a whole.
- *Third Party* means any other participant in the process, including a witness to the misconduct or an individual who makes a Report on behalf of another.
- *Threshold Determination* means a determination reached by the Investigator after an Investigation as to whether the elements of a Policy violation have been sufficiently raised to proceed to Adjudication.
- *Title IX Coordinator* is an official designated by the University to ensure compliance with Title IX, the University's Title IX program, and this Policy. References to the Title IX Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.
- *University Community* means Drexel University faculty, students, employees (including employees covered under Collective Bargaining Agreements), trustees, officers, and other members of the University community. It also applies to applicants for admission or employment, visitors, and third parties doing business or providing services on campus, including vendors, independent contractors, and consultants. When used in this Policy, "employee" generally refers to both professional staff and faculty members.