



## **Xavier University Sex Discrimination and Sexual Harassment Policy**

### **POLICY INTRODUCTION**

The University is committed to providing a learning and working environment that affirms the dignity and inherent worth of every member of the University community regardless of a person's assigned sex at birth, biological sex and genetic makeup, sexual orientation, gender, gender identity, and gender expression. Members of Xavier University (the "University") community including students, faculty, or any other person employed by, contracted with, or invited to the University, guests and visitors have the right to be free from sexual harassment, violence, and discrimination. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University Sex Discrimination and Sexual Harassment Policy has been developed to reaffirm this expectation and to provide recourse for those individuals whose rights have been violated.

The term Sexual Misconduct includes conduct often described as sexual harassment, sex/gender discrimination, sexual assault, sexual violence, rape, stalking, and relationship violence (including domestic and dating violence). This also includes harassment that targets a person based on gender identity, transgender identity, or gender transition. Sexual Misconduct can occur between any persons regardless of sex and gender identity.

The University will take steps to respond to reports of sexual misconduct and will impose sanctions on anyone who has been found to have violated this policy following an investigation and adjudication process. Resolution by the University is intended to help bring an end to harassing or discriminatory conduct, prevent recurrence, and address the effects on the Complainant and the community. This policy serves (1) as a measure to evaluate if behaviors trespassed on community values and (2) as a guide for students, employees and third parties about the University's expectations for responsible and respectful sexual communication and interaction.

Note: Information contained within this policy is subject to change by the University at any time. Although notice is not required for any change to take effect, the University will make reasonable attempts to timely notify the community of any changes through Web site or email postings, or other methods deemed appropriate by University administration. Any changes shall take effect upon publication on the University's website.

### **Title IX Coordinator**

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law prohibiting all forms of sex discrimination, which include sexual harassment, sexual assault, and sexual violence.

Since the University is a recipient of federal financial assistance, all University students, employees, affiliates, and visitors are covered by Title IX requirements and protections. The University has appointed a Title IX Coordinator to ensure all University community members are protected in compliance with the Title IX requirements. In addition to receiving grievances, questions, concerns and requests for consultations, the Title IX Coordinator oversees and manages the University's response and resolution process of reports of sexual misconduct and ensures a fair and neutral process for the resolution of such complaints.

## **I. SCOPE OF THE POLICY**

The University is committed to creating an environment that encourages individuals to come forward if they have experienced any form of sexual misconduct. The University will process all reports of sexual misconduct, regardless of when and where the conduct occurred, to determine whether the conduct occurred in the context of an educational program or activity or had continuing effects on campus or in a University education program or activity. Determinations will include what remedies are available and what procedures may apply.

### Discrimination Based on Sex

Sexual harassment is discrimination on the basis of sex and is prohibited under this policy. Sex discrimination shall be referred to the appropriate office for handling under other appropriate policies as may be applicable.

### Free Speech and Academic Freedom

This Policy is intended to protect members of the University community from sexual misconduct, not to regulate protected speech or impinge on the right to freedom of speech and expression.

Further, the University supports and encourages free inquiry and the search for and dissemination of knowledge and thus recognizes the principles of academic freedom. Although this Policy is not intended to interfere with or impinge upon freedom of speech or academic freedom, neither freedom of speech nor academic freedom are limitless and do not protect speech or expressive conduct that violates this Policy, or federal or state anti-discrimination laws.

### Xavier University Non-Discrimination Policy

Xavier University of Louisiana admits students of any race, color, national and ethnic origin, gender, sexual orientation, handicap, or religion to all rights, privileges, programs, and activities generally accorded or made available to students at the University. It does not discriminate on the basis of race, color, national and ethnic origin, gender, sexual orientation, or religion in administration of its employment and educational policies, admissions policies, scholarship and loan programs, and other University-administered programs.

## **II. APPLICABLE PROCEDURES**

The Sex Discrimination and Sexual Harassment Policy incorporates both procedures that comply with the Title IX Federal regulations effective August 14, 2020 (Appendix A) and also procedures that address sexual misconduct not covered by the Title IX Federal regulations effective August 14, 2020. The procedures to be used shall be determined by the Title IX Coordinator based on a number of factors, including the status of the parties involved, the conduct alleged to have occurred, the location of the alleged conduct, and the date on which the alleged conduct occurred. When Appendix A is not applicable, the University will evaluate complaints using the procedures outlined in Sections V - VIII below, as well as other applicable policies including the Student Handbook, Human Resources policies, the Faculty and Governance Handbook, and Staff Handbook.

#### Consolidation of Cases

In the event that the allegations under this Policy also involve allegations of a violation of a separate policy, the Title IX Coordinator shall have sole discretion to determine whether to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this Policy.

### **III. PROHIBITED CONDUCT**

The following conduct is prohibited under this policy.

#### **Sexual Harassment**

*(Please Note that consistent with Title IX Federal Regulations of 2020, Appendix A includes a different definition of Sexual Harassment that is applicable when the Title IX Coordinator determines that a complaint falls under Appendix A and will be handled using Appendix A).*

Sexual Harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, gender, or related stereotyping, even if these acts do not involve conduct of a sexual nature.

Examples of conduct, which if unwelcome, may constitute sexual harassment may include but are not limited to:

- direct proposition of a sexual nature and/or subtle pressure for sexual activity that is unwanted and unreasonably interferes with a person's work, academic or educational environment.
- unwelcome sexual advances, whether or not they involve physical touching or not.

- sexual epithets or jokes; written or verbal references to sexual conduct; gossip regarding one's sex life; comment on an individual's body; comment about an individual's sexual activity, experiences, deficiencies, or prowess.
- displaying sexually suggestive objects, pictures, cartoons, etc.
- unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments, threats, or innuendos of a sexual nature.
- unwanted physical contact such as touching, hugging, brushing against a person's body, impeding, or blocking movements.
- gender harassment, including sexist statements and behavior that convey insulting, degrading, or sexist attitudes.
- repeated and unwanted requests for dates; unwelcome and inappropriate letters, telephone calls, email, texts, graphics, and other communications or gifts.
- direct or implied threats that indicate that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation.
- sexually explicit statements, questions, jokes, or anecdotes regardless of the means of communication (verbal, written, email, text messages, etc.); and
- the display of inappropriate sexually oriented materials in a location where others can view them.

### **Sexual Assault**

Sexual assault is the act of committing unwanted physical contact of a sexual nature, whether by an acquaintance or stranger. Such contact is unwanted when it occurs without the consent (as defined below) of one or all individuals, including when any of the individuals are incapacitated or incapable of giving consent (as defined below), or occurs with the use of force (as defined below). The following acts are considered sexual assault, and are prohibited:

#### **(a) Nonconsensual Sexual Contact (or attempts to commit the same)**

Any intentional sexual touching, however slight, with any body part(s) or inanimate object(s), by person(s) upon another person(s), without consent and/or by physical force, coercion, or threat.

Examples of nonconsensual sexual contact include but are not limited to: touching of a non-consenting person's intimate parts (such as groin, genitals, breast, buttocks, mouth, and/or clothing covering these parts); touching a non-consenting person with one's own intimate parts; making a non-consenting person touch you or another on an intimate body part; or any intentional bodily contact in a sexual manner, even if it does not involve the genitals, mouth, breast, buttocks, groin, or other orifice. Such actions can be considered nonconsensual sexual contact whether or not physical force, coercion or threat is involved.

Sexual contact or activity with a person who is incapacitated (by use of drugs, alcohol, or any other means) or otherwise unable to consent (i.e., asleep, intellectually impaired, etc.) is considered non-consensual. See the definitions of consent and incapacity below for more

information.

**(b) Nonconsensual Sexual Intercourse (or attempts to commit the same)**

Any sexual intercourse (anal, oral, or vaginal penetration), however slight, with any body part(s) or inanimate object(s), by person(s) upon another person(s), without consent and/or by physical force, coercion, or threat.

Examples of nonconsensual sexual intercourse include but are not limited to non-consensual penetration (oral, anal, or vaginal) with any object or body part, including but not limited to fingers, tongue, penis, or any foreign object. This includes, but is not limited to, penetration of a bodily opening or cavity without consent or subjecting an unwilling person to perform or engage in intercourse and/or penetration. Such actions can be considered nonconsensual sexual intercourse whether or not physical force, coercion or threat is involved.

Sexual contact/activity with a person who is incapacitated (by use of drugs, alcohol, or any other means) or otherwise unable to consent (i.e., asleep, intellectually impaired, etc.) is considered non-consensual. See the definitions of consent and incapacity below for more information.

**Sexual Exploitation**

Sexual Exploitation is taking nonconsensual, unjust, or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited that does not otherwise constitute nonconsensual sexual contact or intercourse. Examples of sexual exploitation include, but are not limited to:

- Prostituting of another individual.
- Photographing or video/audio recording of someone involved in sexual activity, sexual intercourse/penetration, or in a state of undress without their knowledge and consent.
- The dissemination of photographs or audio/video of someone involved in sexual activity, intercourse/penetration, or in a state of undress, without their knowledge and consent.
- Exceeding the boundaries of explicit consent, such as allowing a third party to hide in a closet to be witness to one's consensual sexual activity or disseminating sexually explicit images without the consent of all parties.
- Engaging in voyeurism, which is the act of observing someone involved in sexual contact/activity, sexual intercourse/penetration or in a state of undress, without their knowledge and consent.
- Offering drugs, alcohol, or other substances to a person, with or without their knowledge, with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity or intercourse/penetration, regardless of whether sexual activity actually takes place; and/or
- Knowingly transmitting a sexually transmitted disease/infection or HIV to a person.

### **Relationship Violence (including domestic, dating, and intimate partner violence)**

Relationship violence (including domestic, dating, and intimate partner violence) is intentionally violent or controlling behavior by a person who is currently or was previously in a social relationship of a romantic or intimate nature with the survivor. Relationship violence includes actual or threatened physical injury, sexual assault, psychological abuse, economic control, and/or progressive social isolation.

Relationship violence occurs in all types of relationships. Relationship violence can include but is not limited to threats of physical harm; physical or emotional abuse; destroying property; controlling/possessive behavior; threatening self-harm if the other partner leaves the relationship; or monitoring a partner's calls and emails in order to manipulate or isolate.

### **Stalking**

Stalking on the basis of sex is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition:

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the 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.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- *Reasonable person* means a reasonable person under the same or similar circumstances and with the same or similar identities to the Complainant.

Examples of stalking include but are not limited to one person persistently, unwantedly, and repeatedly following another; appearing at a person's home, class or workplace without permission or invitation; making frequent phone calls, emails, text messages, or social media messages; leaving written messages or objects; and/or vandalizing a person's property.

### **Retaliation**

Retaliation exists when an individual harasses, intimidates, or takes other materially adverse action(s) against a person for raising concerns about prohibited conduct or for their support of someone involved in raising such concerns. An individual may be found in violation by requesting or encouraging another person to retaliate on one's behalf. Retaliatory actions may include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, intimidation, bullying, or excluding from programs or activities. It is unlawful and it is a violation of University policy to retaliate against an individual for filing a complaint of sexual misconduct or for cooperating in a sexual misconduct investigation. Retaliating against anyone who reports an incident of sexual misconduct, brings forward a complaint, or who in any way participates in an inquiry or investigation of sexual harassment, is strictly prohibited. Retaliation is also prohibited against anyone who in good faith opposes, in a reasonable manner, any act or policy believed to

constitute a violation of the Sex Discrimination and Sexual Harassment Policy.

#### **IV. GENERAL DEFINITIONS OF THE POLICY**

**Advisor:** A Party may be accompanied by an advisor of their choice to any investigation, adjudication, or administrative proceeding under this Policy. At the direction of the Party, an Advisor may be copied on communications with the Party and have access to documents and materials made available to the Party. Other than in procedures outlined in Appendix A, an Advisor may not represent, speak, or act on behalf of a Party. Additionally, an Advisor may not act to impede, obstruct, delay, or undermine any steps taken under this policy.

**Complainant:** The person who experienced the incident(s) of Sexual Misconduct.

**Consent:** Consent is an informed, knowing, voluntary, and mutual decision to engage in sexual activity and can be withdrawn at any time. Consent is active, not passive. Consent can be given by words or actions as long as those words or actions create mutually unmistakable permission regarding the conditions of sexual activity. Consent must be obtained by the person initiating sexual activity at every stage of sexual interaction.

The use of alcohol, drugs, or any other intoxicating substance will never be accepted as an excuse or reason for failing to obtain consent: A person who has consumed alcohol and/or drugs still has a responsibility to obtain consent for any sexual activity with another person.

Under this definition:

- Silence, by itself, cannot constitute consent.
- The absence of resistance does not imply consent.
- Consent to one sexual act does not constitute or imply consent to a different sexual act.
- Past consent does not imply consent to future sexual acts.
- Consent is required regardless of the parties' relationship status or past sexual history.
- A verbal "no" or its equivalent meaning, even if it may sound tentative, indecisive, or insincere, indicates a lack of consent.
- The use of force to cause someone to engage in sexual activity cannot constitute consent.

Consent can never be given by:

- *Someone who is incapacitated.* A person can be incapacitated through the use of drugs, alcohol, or any other intoxicating substance, or when they are unconscious or asleep. It is a violation of this Policy to engage in sexual activity with someone you know or should know is incapacitated. See the definition of incapacity below for more information.
- *Someone who is intellectually disabled.* Certain intellectual disabilities can cause a person to be unable to knowingly consent to sexual activity. It is a violation of this Policy to engage in sexual activity with a person whose intellectual disability renders them

incapable of giving consent and the disability is known or should have been known to the non-disabled sexual partner. Under these circumstances, the conduct is non-consensual regardless of whether the person appeared to be a willing participant.

- *Someone who is under the legal age of consent.* In Louisiana, the legal age of consent is seventeen (17). It is a violation of this policy to engage in sexual activity with a person who is under the age of consent, regardless of whether the person willingly participated in the conduct, unless otherwise provided by law. The University will take into consideration Louisiana laws that are applicable related to the age of consent. Note: Louisiana state law may have some exceptions that are applicable here and those will be applied to this policy when appropriate, including any mandatory reporting law that Xavier University may be obligated to report to the local District Attorney.

**Days:** Unless otherwise specified, any reference to “days” refers to University business days and do not include University holidays, closures, and weekends.

**Director of Human Resources:** The person designated by the Vice President for Finance and Administration to be the highest level of Human Resources personnel responsible for the administration of personnel policies and procedures.

**Director of Student Conduct:** The person designated by the Vice President for Student Affairs to be responsible for the administration of the Student Code of Conduct; sometimes also referred to as the “Student Conduct Advisor.”

**Employee:** Any person hired by the University to perform work for hire, including faculty members and all other staff.

**Faculty Member:** Any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty or instructional staff. This includes, but is not limited to, teaching faculty, research faculty, on and off-campus clinical supervisors, and faculty or supervisors working at cooperating institutions or programs.

**Force:** The term “force” includes the use of any of the following:

- Physical force, violence, the presence, or use of a weapon
- Threats or harassment
- Intimidation, abuse of real or perceived power or authority, implied threats
- Coercion or duress; this includes pressuring another person to perform or engage in sexual activity.

**Incapacitation:** Incapacitation is the lack of physical or intellectual capability to consent. Being incapacitated differs from being intoxicated or drunk. A person who is incapacitated cannot understand the fact, nature, or extent of sexual activity. Incapacitation may be a result of consuming alcohol, drugs, or other intoxicating substances, being unconscious or asleep, and/or other factors that could alter one’s faculties. It is a violation of this Policy to engage in sexual



activity with a person who is incapacitated, regardless of whether the person appeared to be a willing participant.

**Interim and Supportive Measures:** The University may offer non-disciplinary, non-punitive individualized services, to the Complainant or Respondent before, during or after a report is made under this Policy. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other Party.

Such measures may include, but are not limited to:

- mutual restrictions on contact between the Parties.
- changes in work or housing locations
- modifications of class or work schedules
- withdrawal from a course
- academic support
- safety escorts
- counseling
- leaves of absence

**May:** The term “may” be used in the permissive sense.

**Member of the University Community:** Includes any person who is a student, faculty member, University official or any other person employed by, contracted with, or invited to the University.

**Policy:** The term “policy,” when not otherwise specifically defined, means the written regulations of the University as found in, but not limited to, the Student Code of Conduct, Residence Hall Handbook and contracts, the Appropriate Use Policy for Information Technology, and Graduate/Professional and Undergraduate Catalogs, any other writings deemed appropriate by the University, and any Human Resources policies, including the Faculty and Governance handbook and Staff Handbook.

**Responsible Employee:** Any employee of Xavier University including Resident Assistants, and the following student employees when acting in the course of their employment duties: Teaching Assistants, Work study Students, and Student Workers. A Responsible Employee has the obligation to report to the Title IX Coordinator any information learned about an act of sexual misconduct involving a student. Supervisors are also required to report to the Title IX Coordinator any information about an act of sexual misconduct involving an employee.

**Relevant Evidence:** Relevant evidence is evidence pertaining to an allegation that is likely to prove or disprove an allegation or fact.

**Sanction:** A sanction is any action or decision resulting from a violation of a University policy or the proscribed conduct outlined in the Student Code of Conduct.

**Appellate:** Any person or persons authorized by the Title IX Coordinator to review Title IX appeals under this Policy.

**Shall:** The term “shall” be used in the imperative sense.

**Student:** The term “student” includes all persons taking courses at the University, either full-time or part-time, and whether non-degree seeking or pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the University or who have been notified of their acceptance for admission may be considered “students” for the purposes of this Policy. A person’s status as a student in any particular situation shall be determined by the Vice President for Enrollment Management and Student Affairs, or designee.

**Student Group:** The term “student group” means any number of students who have complied with formal University requirements for University recognition as a student group.

**Support Person:** A Party may be accompanied by a Support Person of their choice to any meeting, investigation, adjudication, or administrative proceeding under this Policy. A support person is one who provides emotional support and assistance in a proceeding under this Policy. A Support Person may not also act as an Advisor to the same Party. A Support Person may not represent, speak, or act on behalf of a Party. Additionally, a Support Person may not act to impede, obstruct, delay, or undermine any steps taken under this policy. A support person may be a confidential advocate.

## **V. REPORTING**

The University encourages members of the University community who have experienced sexual misconduct to report the conduct so that the conduct may be addressed, and resources and support may be provided. There is no timeframe for making a report, but the University encourages reports as close in time to the alleged incident as possible. The University provides confidential, non-confidential and anonymous reporting options (Appendix B, Resources).

A report of sexual misconduct to any employee of the University including Resident Assistants, and the following student employees when acting in the course of their employment duties: Teaching Assistants, Student Workers, will be shared with the Title IX Coordinator who will then determine the appropriate response. Employees receiving reports of sexual misconduct involving a student must notify the Title IX Coordinator of the report including all information they receive about a report of sexual misconduct including the names of the Complainant, Respondent, and any witnesses, as well as any information known about what may have taken place including the date, time, and specific location of the alleged incident.

To the extent possible, information reported to a non-confidential campus resource will be

shared only with individuals at the University who have a role in responding to a report of sexual misconduct. A report of sexual misconduct made to the Title IX Coordinator will not be shared with law enforcement without the Complainant's consent unless the report contains information regarding a threat to the physical safety of one or more member of the University community.

A report of sexual misconduct may be made to the Title IX Coordinator or any University employee. Reports may also be made using the University's Bias and Hate Reporting System.

Title IX Coordinator: [titleix@xula.edu](mailto:titleix@xula.edu)

### **Reporting to Confidential Campus Resources**

Confidential Campus Resources assist the Complainant in receiving necessary protection and support, such as Complainant advocacy, and health or mental health services. A report of sexual misconduct made to a confidential campus resource will not be shared with the Title IX Coordinator or any other member of the University community, unless the report contains information regarding a threat of harm to oneself or others.

The University may be limited in its response to a report made to a Confidential Resource, as the University cannot conduct an investigation or pursue disciplinary action in response to a report that is made only to a Confidential Resource.

A Complainant who makes a report to a Confidential Resource may also decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated.

While maintaining a Complainant's confidentiality, confidential resources should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report—which does not include information that would directly or indirectly identify the Complainant—helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

### **Anonymous Reporting**

A report of sexual misconduct may be made online by submitting a concern using the online tool Ethics Point. An anonymous report may limit the University's ability to investigate and address sexual misconduct, as disciplinary action may not be taken against any individual when based solely upon an anonymous report.

### **Clery Act Obligations**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act requires all universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. The Clery Act, signed

in 1990, was originally known as the Crime Awareness and Campus Security Act.

In accordance with the Clery Act, the University will track all non-identifying information regarding reports of sexual misconduct made to Non-Confidential Resources and those submitted through the Bias and Hate Reporting System. At any time, if the University determines that there is a serious and immediate threat to the University community, the Director of Campus Public Safety, the Title IX Coordinator, and the Dean of Students may issue a timely warning to the community. Timely warnings do not include any information that identifies a Complainant.

### **Amnesty**

Individuals who make a report of sexual misconduct will not be disciplined for University policy violations that occur around the time of the alleged sexual misconduct, unless the conduct risks the health or safety of another or involves plagiarism, cheating or other forms of academic dishonesty.

### **Protection from Retaliation**

Any member of the University community has the right to raise good faith concerns about or file a good faith complaint of sexual misconduct without fear of retaliation. It is unlawful and a violation of this Policy to retaliate against an individual for filing a complaint of sexual misconduct, for cooperating in a sexual misconduct investigation, or for supporting someone involved in raising such concerns of misconduct. Any person who retaliates is subject to disciplinary action up to and including expulsion and/or termination by the University.

## **VI. RESPONDING TO A REPORT**

### **Initial Outreach**

Upon receipt of a report of sexual misconduct under this Policy, the Title IX Coordinator shall contact the Complainant to provide information and an invitation to meet with the Title IX Coordinator or designee to discuss options for reporting and resolving the alleged misconduct, including: (a) information regarding available campus resources, assistance and support; (b) the right to make a report of the alleged misconduct to both the University and to law enforcement and to make no report at all; and (c) information regarding University options and procedures for addressing and resolving the alleged misconduct.

### **Initial Assessment of the Report and Preliminary Inquiry**

Following receipt of a report of misconduct and/or a conversation with the Complainant, the Title IX Coordinator or designee will conduct an initial assessment of the report to determine: (a) whether interim or supportive measures are needed; (b) whether there is an immediate threat to the health and safety of an individual or the University community and if so, take appropriate steps to address such threat; and, (c) the appropriate resolution method(s) based on the information known at that time regarding the alleged misconduct.

Prior to deciding the appropriate method for resolution, the Title IX Coordinator may conduct a preliminary inquiry in order to better understand the nature of the allegations and confirm the appropriate resolution method. This may include conversations with other University employees or students. These conversations are not interviews connected to or part of an investigation, rather these conversations are conducted simply to gather sufficient information needed for the Title IX Coordinator to determine the most appropriate method to use to resolve the report.

Where the Title IX Coordinator determines that the alleged misconduct must be handled using the process, definitions, and procedures in compliance with Title IX Federal Regulations of 2020, then procedures outlined in Appendix A, will apply. All other allegations of misconduct will be handled using the procedures outlined below.

Where the Title IX Coordinator determines that the alleged misconduct, even if proven, would not constitute a violation of this Policy, the Title IX Coordinator may take steps to prevent potential future violations of this policy and respond to the report as follows:

- Refer the report to the appropriate University official for their review, response, and handling in accordance with other applicable University policies and procedures.
- Work with Complainant and/or other University officials to address the alleged conduct through non-punitive means including educational conversations, facilitated conversations, training, and written communications.

#### Academic Freedom

When an allegation implicates academic freedom, the Title IX Coordinator will consult with the appropriate academic official to obtain relevant academic judgement regarding those aspects of the allegation connected to the tenets of academic freedom prior to the initiation of any resolution method.

#### **Emergency Removal of a Student or Employee**

If at any time the University determines that the conduct, as alleged, poses a risk of physical harm to one or more members of the University community or to the University's educational, research, scholarly, or work environment, the University may instruct that: (a) a student Respondent be suspended, on an interim basis, from specific programs or activities; or, (b) an employee may be placed on administrative leave pending the outcome of an investigation and hearing. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. The decision to enact an interim suspension, removal or leave will be provided to Respondent in writing with a rationale for the decision, and an explanation of the process for challenging the emergency removal decision.

The decision to place any Respondent on an interim suspension, removal or leave shall not be considered as evidence that any determination has been made regarding potential responsibility for violating this, Policy.

Opportunity to Challenge Decision to Suspend or Remove: A student Respondent shall have an opportunity to challenge the decision of suspension or removal by contacting the Dean of Students within five (5) business days of the interim suspension, who will schedule a meeting during which the student may present their challenge to the decision. An employee Respondent shall have an opportunity to challenge the decision of removal or leave by contacting the Director of Human Resources within five (5) business days of the removal or leave, who will set up a meeting for the employee to present their challenge to the decision.

## **VII. METHODS OF RESOLUTION**

There are three different methods that may be used to address a report: a support-based resolution, agreement-based resolution, or an investigation. When appropriate, the Title IX Coordinator will incorporate the wishes of the Complainant into the decision of which resolution method to use. There may be times when the Title IX Coordinator must move forward with a particular resolution method against the wishes of a Complainant such as when the alleged misconduct threatens the physical health or safety of an individual or the University community.

In such circumstances, the Title IX Coordinator will consider:

- whether there have been other sexual violence complaints about the same individual.
- whether the accused has a record indicating a history of violence.
- whether the accused threatened further sexual violence or other violence against the Complainant or others.
- whether the sexual violence was committed by multiple respondents.
- whether the sexual violence was committed with a weapon.
- whether the Complainant is a minor.
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence).
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

### **A. Support-Based Resolutions**

A support-based resolution may be used to provide support to a Complainant who does not wish to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution is not required, based upon what has been alleged. When what is alleged may be a violation of law, or the physical health or safety of an individual or the school community is at risk, a support-based resolution may not be sufficient.

Examples of Support-Based Resolution include adjustments to class or work schedules, adjusted deadlines for projects or assignments, or counseling. A Support-Based Resolution does not preclude later use of another form of resolution, for example if new information becomes available and the Title IX Coordinator determines there is need for additional steps to be taken,

or the Complainant later decides to pursue an Agreement-Based Resolution or Investigation.

In all cases, the steps associated with the Support-Based Resolution shall be documented and retained by the Title IX Coordinator.

## **B. Agreement-Based Resolution**

An Agreement-Based Resolution is a process approved by the Title IX Coordinator where the Complainant and Respondent each voluntarily agree to resolve the concern in a way that does not include an Investigation. Because an Agreement-Based Resolution does not involve an Investigation, there is not any determination made as to whether the Respondent violated this, Policy.

When appropriate, the Title IX Coordinator will take the Complainant's suggestions for resolution into consideration. If both the Complainant and the Coordinator agree to using an Agreement-Based Resolution, the Coordinator will inform the Responding Party of the general nature of the reported concerns, and the proposed resolution. Both the Complainant and Respondent may propose steps or actions to be included in the Agreement-Based Resolution. At any time prior to the conclusion of an Agreement-Based Resolution process, the Complainant, Respondent or Title IX Coordinator may decide that the reported conduct will instead be addressed by Investigation.

The Title IX Coordinator will approve all Agreement-Based Resolution terms, conditions, or agreements. All Agreement-Based Resolutions will result in a written document approved by the Title IX Coordinator. Any violations of the Agreement-Based Resolution may result in sanction or disciplinary action.

Examples include but are not limited to:

- work, academic, or program reassignment
- an agreement that the Complainant and Respondent will engage with one another only in limited circumstances
- an agreement that the Complainant and Respondent will not contact one another
- completion of an educational project by the Respondent
- completion of a community service project by the Respondent
- an agreement to engage in a restorative justice process
- a written apology by the Respondent
- sanction or discipline agreed upon by both the Complainant and Respondent
- any other method agreed upon by the Complainant, Respondent and the Title IX Coordinator that is designed to address the reported conduct.

In all cases the Agreement-Based Resolution process, shall be documented and retained by the Title IX Coordinator.

## **C. Investigation**

An investigation is the method the University uses to establish whether evidence supports that a violation of this Sex Discrimination and Sexual Harassment Policy has occurred as well as the applicable sanctions, if any. The Title IX Coordinator is responsible for overseeing the investigation process and assigning a trained investigator to conduct a fair, neutral investigation. Throughout the investigation process, both the Complainant and Respondent will be treated with respect and without prejudgment regarding the allegations and their involvement in the investigation process.

### **Evidentiary Standard**

The standard used in investigation and adjudication of alleged violations of this policy is Preponderance of Evidence, meaning, when the evidence shows that it is “more likely than not” that the alleged conduct occurred. A Respondent is presumed not to have violated this Policy until the investigation and adjudication has concluded and a preponderance of the evidence establishes it is more likely than not that a Policy violation has occurred.

### **Communicating the Initiation and Outcome of an Investigation**

The Title IX Coordinator will communicate in writing to the Complainant and Respondent both the initiation of an investigation and the conclusion of an investigation.

Prior to the start of any investigation, the Complainant and the Respondent will both be provided with written notification of the decision to initiate an investigation. Such notification will include: the name of the Complainant(s); the name of the Respondent(s); the allegations under investigation including if known the date and location of the alleged conduct; the applicable Policy including sections of the policy; a description of the investigation process; information regarding the right to appeal the investigator’s determinations; and information regarding retaliation. Should additional allegations come under the same investigation, the Title IX Coordinator will communicate in writing to the Complainant and Respondent any additional allegations under investigation.

Following the conclusion of the investigation, the Title IX Coordinator will send written notification to the Complainant and Respondent communicating the results of the investigation. This notice will include a summary of the investigation process, findings from the investigation, an explanation of next steps that may be taken by the University to address the findings including sanctions or discipline as appropriate, and instructions for filing an appeal.

### **Investigation Process and Timeline**

The Title IX Coordinator will assign a trained investigator (who may be an external investigator), who will gather relevant information, including interviews of the Complainant, Respondent and any relevant witnesses, and any relevant documents, materials, or information. Information about an individual’s character is not considered relevant evidence and will not be gathered or considered by the investigator. It may be necessary to interview the Complainant, Respondent, or witnesses more than once during the course of the investigation as new information is learned and gathered.



During the investigation process, both the Complainant and Respondent may be accompanied by an Advisor and a Support Person of their choosing and will be offered an opportunity to meet with the investigator, provide information and evidence pertaining to the allegations, suggest witnesses to be included in the investigation, and suggest questions to be posed of witnesses and the other Party. Once all of the evidence has been gathered and the interviews have been conducted, the investigator will share relevant evidence with the Complainant and Respondent. At the direction of the Complainant and Respondent, relevant evidence may also be shared with their respective Advisor. The Complainant and Respondent may respond to the evidence if they choose to do so by providing written comments or additional relevant evidence to the investigator. Neither the Complainant and Respondent nor their Advisors shall be permitted to copy, disseminate, or alter the evidence gathered by the investigator. After receiving any responses from the Complainant or Respondent, the investigator may gather more information or ask additional questions of the Complainant, Respondent and witnesses as needed and again share new information with the Complainant and Respondent for their review.

All individuals are expected to participate truthfully in the investigation process, whether as a Complainant, Respondent, or a witness. All employees who are Respondents or witnesses in an investigation are required to participate. A determination that there is not enough evidence to support a finding shall not be sufficient to conclude that a party or witness made a knowingly false material statement.

### **Investigation Report**

Once relevant information has been shared with the Complainant and Respondent, the investigator will write a report that includes the allegations under investigation, a list of individuals interviewed, a list of all relevant evidence (documents, emails, screen shots, texts, etc.) gathered, a summary of the relevant information from each interview, an analysis of the relevant information gathered, a determination regarding whether the conduct as alleged occurred, and a determination as to whether this Policy has been violated including the rationale for the determination. Following the conclusion of the investigation, the investigator shall provide the investigation report to the Title IX Coordinator who will determine the sufficiency of the investigation including whether the information contained in the report supports the investigator's findings.

### **Investigation Timeline**

The Title IX Coordinator and the investigator endeavor to complete the investigation process within 60 – 90 business days from the date of the initiation of the investigation. Should the investigation timeline need to be extended, the Title IX Coordinator will notify the Complainant and Respondent in writing of the extension including the reason for the extension and the new timeline for completion of the investigation.

There may be times when the University investigates a complaint of Sexual Misconduct at the same time that a law enforcement agency is investigating the same matter. The University will comply with law enforcement requests for cooperation. At times, that cooperation may require

the University to temporarily suspend its fact-finding Investigation while law enforcement gathers evidence. The University will promptly resume its fact-finding Investigation as soon as it is notified that doing so would not impede any law enforcement activities.

### **Sexual History of a Complainant**

Questions regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be considered, unless such questions and evidence about the Complainant's prior sexual behavior are offered for one of two reasons: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### **Medical and Counseling Records**

Medical and counseling records are privileged and confidential documents that students will not be required to disclose in this process. Medical and counseling documents being privileged means that they cannot be shared with anyone other than the treating professional unless the patient agrees to disclosure. Prior to producing medical records, Parties are encouraged to ask the investigator or the Title IX Coordinator about the possible consequences of releasing this information.

### **Ensuring the Integrity of the Investigation Process**

The Title IX Coordinator may exercise appropriate action to ensure the integrity of the investigation and the opportunity for the Complainant, Respondent, and witnesses to participate in the investigation in a manner free of harassment, intimidation, bullying, and retaliation from Parties, Advisors, Support Persons and any other individual whose actions disrupt or interfere with the University's investigation process.

### **Non- University Investigations**

In the event a Party or their Advisor or another third-party to an investigation conducts a separate inquiry into the allegations under investigation by the University, the Party, Advisor or third-party will make such inquiry known to the Title IX Coordinator so that the Title IX Coordinator may notify participants in the University investigation of the additional inquiry, and so that steps can be taken to prevent disruption to the University investigation process, and ensure participation in the University investigation is free of harassment, intimidation, bullying, retaliation or interference.

## **D. Appeal**

Both Complainant and Respondent have the right to appeal the outcome of an investigation. At the conclusion of the investigation, the Title IX Coordinator will appoint a trained Appeals Officer. Appeals must be made in writing to the Appeals Officer within 5 business days following notification of the outcome of an investigation.

An appeal may be filed for one or more of the following reasons:

- A procedural error occurred that materially affected the outcome of the investigation.
- New evidence becomes available that was not reasonably available during the investigation that would materially affect the outcome of the investigation.
- An actual conflict of interest or demonstrated bias on the part of the Title IX Coordinator or investigator.

### **Notification of Receipt of Appeal**

The Appeal Officer will acknowledge receipt of the appeal and make the non-appealing party aware an appeal has been filed and provide the non-appealing party 5 business days to provide a written response to the appeal to the Appeal Officer. A response to the appeal is not required and a lack of response to the appeal does not indicate agreement with the appeal.

### **Review and Determination of the Appeal**

The Appeal Officer will review the written appeal and any response to the appeal, along with any documents pertaining to the investigation and any additional supporting documents pertaining to the appeal.

The Appeal Officer will issue a written determination regarding the appeal to Complainant, Respondent, and the Title IX Coordinator within 15 business days following the deadline to submit appeal materials.

The determination of the Appeal Officer may:

- Affirm the findings/outcome of the investigator
- Return the matter to the investigator or Title IX Coordinator to review and consider any new evidence not previously available during the investigation
- Return the matter to the investigator or Title IX Coordinator to correct any procedural error that may have materially affected the outcome of the investigation and determination by the investigator

The determination of the Appeal Officer is final.

### **E. Discipline and Sanction**

Following a determination of a violation of this Policy, the Title IX Coordinator will forward the notice of outcome of the investigation, and a copy of the investigation report to the appropriate University official for determination and implementation of sanctions designed to prevent the recurrence of the conduct. The appropriate University official is determined by the status of the Respondent as follows:

If the Respondent is a student:	Student Conduct
If the Respondent is a staff member:	Human Resources
If the Respondent is a faculty member:	Provost

When determining an appropriate sanction, consideration will be given to the Complainant's

ability to freely access the benefits of their education or employment and participate in the University community.

A range of sanctions, from warning to expulsion, revocation of admission and/or degree, withholding of degree, permanent implementation of changes to work assignments or class schedules, suspension, expulsion, termination, or referral to an employee discipline process may be imposed upon any student or employee found to be responsible for sexual misconduct.

The following will be considered as aggravating factors when determining discipline or sanction:

- Type of misconduct
- Frequency of the misconduct
- Severity of the misconduct
- Previous conduct history of the Respondent
- Non-adherence to interim measures (e.g., no contact directives)
- Pre-meditated use of drugs or alcohol to facilitate the violation
- Use of force or weapon in committing the violation
- Multiple actors committing the violation
- Ongoing threat to the Complainant or University community

Students found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of University suspension or University expulsion. Employees found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of dismissal or referral to an employee-dismissal process. Individuals who are not students or employees found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of permanent removal from campus. Deviations from these recommended sanctions are rare and made where there are compelling mitigating circumstances.

The appropriate University official will consult with the Title IX Coordinator prior to the decision and implementation of the discipline or sanction.

## **F. Remedy**

Remedies may be provided to the Complainant upon a finding that the Respondent is responsible for sexual misconduct. Remedies shall be determined by the Title IX Coordinator. Remedies are designed to restore or preserve equal access to the recipient's education program or activity. The range of remedies include:

- Education to the individual and/or the campus community
- Permanent alteration of living arrangements
- Permanent alteration of work schedules or assignments for employees
- Permanent alteration of course schedules
- Long-term contact limitations between the Parties
- Adjustments to academic deadlines

- Policy modifications or modifications of training

### **G. Final Written Decision**

The University will issue a Final Written Decision including its determination of responsibility, any sanctions or corrective action taken, and will provide to the Complainant any remedies designed to restore or preserve equal access to the University's education program or activity.

### **VIII. OTHER NON- UNIVERSITY REPORTING OPTIONS**

Individuals experiencing sexual misconduct or discrimination may also file a formal grievance with government authorities. Deadlines may apply.

#### **The OCR office for Louisiana is located at:**

Dallas Office  
Office for Civil Rights  
U.S. Department of Education  
Renaissance Tower  
1201 Elm Street, Suite 1000  
Dallas, Texas 75270

Telephone: 214-661-9600  
FAX: 214-661-9587; TDD: 800-877-8339  
Email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

#### **The OCR National Headquarters is located at:**

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

## **APPENDIX A**

### **Title IX Sexual Misconduct Process**

The 2020 Federal Title IX Regulations require that certain allegations of sexual misconduct that occurred on or after August 14, 2020, be reviewed under specific definitions and resolved using specific procedures. The definitions of Prohibited Conduct in this Appendix are in accordance with the Department of Education's Title IX Regulations, published May 19, 2020.

The procedures outlined in this Appendix will apply to alleged conduct that:

- a) at the time of filing a Formal Complaint the Complainant is participating in or attempting to participate in an education program or activity of the University.
- b) the alleged misconduct occurred on campus or in any building owned or controlled by a student organization that is officially recognized by the University, or as part of an event or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.
- c) the alleged misconduct occurred in the United States; and,
- d) the alleged conduct occurred on or after August 14, 2020.

Complaints of misconduct not covered by this Appendix shall be reviewed according to Prohibited Conduct and handled in accordance with the procedures contained in the main portion of this Policy or referred to other appropriate University offices for handling under other applicable University policies or codes.

*Consolidation of Cases:* In the event that the allegations under this Appendix also involve allegations of a violation of a separate section of this Policy, the Title IX Coordinator shall have sole discretion to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this Appendix.

#### **I. PROHIBITED CONDUCT**

Prohibited Conduct as used throughout this Appendix is defined to include any of the following acts when they occur on or after August 14, 2020, in the United States and, either on campus or in a building controlled by an officially recognized University organization, and/or in a University program or activity and for which the University exercises substantial control over the Respondent and the context in which the sexual misconduct occurs.

**Sexual Harassment:** Conduct on the basis of sex committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved

which is one of the following:

A University employee conditions the provision of an educational, research, scholarly or work benefit or service on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive, that it effectively denies a person equal access to an educational, research, scholarly or work program or activity of the University. Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns.

### **Sexual Assault**

Sexual Assault includes forcible and non-forcible offenses.

Sexual Offenses, Forcible: Any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent:

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensual), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

### Sex Offenses, Non-Forcible

The following acts are considered non-forcible offenses:

Incest: Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Louisiana law.

**Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 18 years of age.

**Sex-Based Stalking**

Engaging in a course of conduct on the basis of sex directed at a specific person, which would cause a reasonable person to fear for the person’s safety, or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition, “course of conduct” means two or more acts, including, but not limited to:

- Acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Dating Violence**

Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence**

Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the applicable domestic or family violence laws, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the applicable domestic or family violence laws. Allegations of child abuse under applicable law shall also be referred to Children’s Protective Services or local law enforcement.

**II. ADDITIONAL DEFINITIONS UNDER APPENDIX A**

All definitions contained in the main portion of this Policy also apply to Appendix A. The following additional definitions also apply to Appendix A.



**Actual Knowledge:** The University has Actual Knowledge of a report of Prohibited Conduct when a report or Formal Complaint of Prohibited Conduct allegations is made to the University's Title IX Coordinator or Director of Human Resources or any official with authority to institute corrective measures on behalf of the University. Any administrator, staff, or faculty who receives a report of a potential violation of this Policy will promptly forward to the Title IX Coordinator any report or information received. The mere ability or obligation to report Prohibited Conduct or to inform about how to report Prohibited Conduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. This standard is not met when the only University official with actual knowledge is the Respondent.

**Adjudicator:** Any person or persons authorized by the University to conduct a live hearing in order to determine whether, by a preponderance of evidence, a Respondent has engaged in Sexual Harassment or Sexual Misconduct as defined in Appendix A. When serving as an Adjudicator in a particular matter, a person will not also serve as Investigator, Title IX Coordinator, or any person who facilitates an informal resolution process, and will not hear and decide appeals.

**Formal Complaint:** A Formal Complaint is a written document or electronic submission by the Complainant, and not by a third party on the Complainant's behalf that contains all of the following:

- Where the incident(s) occurred
- What incident(s) occurred
- When the incident(s) occurred
- Identity of Respondent, if known
- A request for an investigation, and
- Complainant's digital or physical signature or some other direct indication that it is the Complainant who is filing the Formal Complaint.

A Formal Complaint may be made to the University Title IX Coordinator by US mail or email, using the contact information listed below.

**Hearing Advisor:** During a hearing, a Complainant and Respondent shall have a Hearing Advisor. The role of a Hearing Advisor is limited to asking questions of the other party, and witnesses during the course of a hearing. The Hearing Advisor may not otherwise participate directly in, represent a party, impede, or interfere with the hearing proceedings. The Hearing Advisor may be the same person who served as the Advisor for a Party throughout the investigation. This person may be of the Complainant's or Respondent's own choosing. However, if a Complainant or Respondent does not have a Hearing Advisor who can be present for the hearing, one will be provided by the University.

### III. PROCEDURES

#### A. FILING AN APPENDIX, A FORMAL COMPLAINT

In order to proceed to a Resolution Process under Appendix A, a Formal Complaint must be filed and signed by either Complainant or the Title IX Coordinator. A Formal Complaint differs from solely making a report to the Title IX Coordinator. A Formal Complaint results in notification to the Respondent that a report has been made. Anyone who wishes to discuss their options for resolving a complaint prior to filing a Formal Complaint is encouraged to contact the Title IX Coordinator.

At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in a University program or activity or be an applicant to, or employee of, the University.

A Formal Complaint is a written document or electronic submission by the Complainant, and not by a third party on the Complainant's behalf that contains all of the following:

- Where the incident(s) occurred
- What incident(s) occurred
- When the incident(s) occurred
- Identity of Respondent, if known
- A request for an investigation, and
- Complainant's digital or physical signature or some other direct indication that it is the Complainant who is filing the Formal Complaint.

A Formal Complaint may be made to the University Title IX Office by US mail or email, using the contact information listed below.

- Interim Title IX Coordinator, Jill Moffitt, Ed.D.,
  - [Titleix@xula.edu](mailto:Titleix@xula.edu)
  - 504-520-6712
- Assistant Vice President of Student Affairs, Chief Inclusion Officer & Deputy Title IX Officer, Kerri Lee Alexander
  - UC Suite 208
  - [Deputytitleix@xula.edu](mailto:Deputytitleix@xula.edu)
  - 504-520-7229

#### B. RESPONDING TO AN APPENDIX A FORMAL COMPLAINT

Following receipt of an Appendix A Formal Complaint, the Title IX Coordinator shall review the complaint to ensure that the complaint satisfies all of the requirements of a Formal Complaint:

- A written document submitted by Complainant
- Where the incident(s) occurred

- What incident(s) occurred
- When the incident(s) occurred
- Identity of Respondent, if known
- A request for an investigation, and
- Complainant's digital or physical signature or some other direct indication that it is the Complainant who is filing the Formal Complaint.

If the Formal Complaint meets all the above requirements, the Title IX Coordinator will provide written notification to the Respondent that a Formal Complaint has been filed and the commencement of the Resolution Process, unless the Title IX Coordinator determines that the Formal Complaint should be dismissed as set forth below. In the event the University dismisses a Formal Complaint, both parties will be notified in writing of the decision and the rationale for the decision, and of the opportunity for both parties to appeal the decision.

#### Mandatory Dismissal

At any time following the submission of a Formal Complaint and prior to the commencement of a hearing, any case proceeding under this Policy will be dismissed if it is determined by the Title IX Coordinator that the conduct at issue does not meet the definitional or jurisdictional requirements of this Policy. This includes the obligation to dismiss a Formal Complaint at any time in the process if it is determined that the conduct as alleged, even if true, would not constitute a violation of this Appendix A.

#### Discretionary Dismissal

The University may, at any time during an investigation or hearing dismiss a complaint when: a) Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint; b) the Respondent is no longer enrolled or employed at the University; or c) circumstances prevent the University from gathering evidence sufficient to reach a determination.

The University may transfer a case dismissed under this Appendix for further handling under the Main Policy or other appropriate University policy or code. If the investigation has already commenced at the time of dismissal, the University may use evidence already gathered during the Title IX process for the further handling of the complaint.

#### **Emergency Removal of a Student or Employee**

If at any time the University determines that the conduct, as alleged, poses a risk of physical harm to one or more members of the University community or to the University's educational, research, scholarly, or work environment, the University may instruct that: (a) a student Respondent be suspended, on an interim basis, from specific programs or activities; or, (b) an employee may be placed on administrative leave pending the outcome of an investigation and hearing. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. The decision to enact an interim suspension, removal or leave will be provided to Respondent in writing with a rationale for the decision, and an explanation of the

process for challenging the emergency removal decision.

The decision to place any Respondent on an interim suspension, removal or leave shall not be considered as evidence that any determination has been made regarding potential responsibility for violating this, Policy.

Opportunity to Challenge Decision to Suspend or Remove: A student Respondent shall have an opportunity to challenge the decision of suspension or removal by contacting the Dean of Students within five (5) business days of the interim suspension, who will schedule a meeting during which the student may present their challenge to the decision. An employee Respondent shall have an opportunity to challenge the decision of removal or leave by contacting the Director of Human Resources within five (5) business days of the removal or leave, who will set up a meeting for the employee to present their challenge to the decision.

## **C. RESOLUTION METHODS**

There are two resolution methods available under this Appendix: (1) Alternative Resolution or (2) Investigation and Hearing.

### **1. Alternative Resolution**

At any time prior to a hearing, if one or both parties wish to not use the investigation and hearing process to resolve the complaint, one or both parties may request an Alternative Resolution to resolve the complaint.

An Alternative Resolution is a voluntary process whereby both Complainant and Respondent arrive at mutually agreeable terms to address the alleged conduct. Both parties and the Title IX Coordinator must agree to the use of Alternative Resolution to resolve a complaint. A Formal Complaint alleging that an employee has engaged in Prohibited Conduct toward a student under this Appendix is not permitted to be handled through the Alternative Resolution process.

If an Alternative Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for Alternative Resolution and will then take steps to determine if the Respondent is also willing to engage in Alternative Resolution. Both parties must agree, in writing, to an Alternative Resolution.

When the Complainant and Respondent agree to the use of an Alternative Resolution, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred.
- The requirements of the Alternative Resolution process including the circumstances under which use of the process precludes the parties from resuming a Formal Complaint arising from the same allegations.
- Any consequences resulting from participating in the Alternative Resolution process,

including the records that will be maintained or could be shared.

- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible for violating this policy as a result of participating in the Alternative Resolution process, unless Respondent admits to violations of this policy.
- An explanation that each party may be accompanied by an Advisor of their choice, who may be a parent, friend, or attorney.
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of two (2) business days' notice.
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Alternative Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Alternative Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through the Investigation and Hearing Process.

Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and no further action shall be taken.

The Alternative Resolution process is generally expected to be completed within thirty (30) business days and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension.

Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.

## **2. Investigation**

The Title IX Coordinator is responsible for overseeing the investigation process and assigning a trained investigator to conduct a fair, neutral investigation. Throughout the investigation process, both the Complainant and Respondent will be treated with respect and without prejudice regarding the allegations and their involvement in the investigation process.

All individuals are expected to participate truthfully in any investigation process, whether as a Complainant, Respondent, or a witness. All employees who are Respondents or witnesses in an investigation are required to participate. A determination that there is not enough evidence to support a finding shall not be sufficient to conclude that a party or witness made a knowingly false material statement.

The Title IX Coordinator and the investigator shall endeavor to complete the investigation process within 60 – 90 business days from the date of the initiation of the investigation. Should

the investigation timeline need to be extended, the Title IX Coordinator will notify the Complainant and Respondent in writing of the extension including the reason for the extension and the new timeline for completion of the investigation.

The Title IX Coordinator may exercise appropriate action to ensure the integrity of the investigation and the opportunity for the Complainant, Respondent, and witnesses to participate in the investigation in a manner free of harassment, intimidation, bullying, and retaliation from Parties, Advisors, Support Persons and any other individual whose actions disrupt or interfere with the University's investigation process.

### **Sharing information with Law Enforcement**

There may be times when the University investigates a complaint of Sexual Misconduct at the same time that a law enforcement agency is investigating the same matter. The University will comply with law enforcement requests for cooperation. At times, that cooperation may require the University to temporarily suspend its Fact-Finding Investigation while law enforcement gathers evidence. The University will promptly resume its Fact-Finding Investigation as soon as it is notified that doing so would not impede any law enforcement activities.

### **Sexual History of a Complainant**

Questions regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be considered, unless such questions and evidence about the Complainant's prior sexual behavior are offered for one of two reasons: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### **Medical and Counseling Records**

Medical and counseling records are privileged and confidential documents that students will not be required to disclose in this process. Medical and counseling documents being privileged means that they cannot be shared with anyone other than the treating professional unless the patient agrees to disclosure. Prior to producing medical records, Parties are encouraged to ask the investigator or the Title IX Coordinator about the possible consequences of releasing this information.

### **Ensuring the Integrity of the Investigation Process**

The Title IX Coordinator may exercise appropriate action to ensure the integrity of the investigation and the opportunity for the Complainant, Respondent, and witnesses to participate in the investigation in a manner free of harassment, intimidation, bullying, and retaliation from Parties, Advisors, Support Persons and any other individual whose actions disrupt or interfere with the University's investigation process.

### **Non- University Investigations**

In the event a Party or their Advisor or another third-party to an investigation conducts a separate inquiry into the allegations under investigation by the University, the Party, Advisor or

third-party will make such inquiry known to the Title IX Coordinator so that the Title IX Coordinator may notify participants in the University investigation of the additional inquiry, and so that steps can be taken to prevent disruption to the University investigation process, and ensure participation in the University investigation is free of harassment, intimidation, bullying, retaliation or interference. Any party, witness, or third0party conducting such an investigation is required to inform anyone interviewed that their inquiry is not an official University inquiry and must identify the individual for whom the investigation is being conducted.

### **Communicating the Start of the Investigation**

Prior to the start of any investigation, the Complainant and the Respondent will both be provided with written notification of the decision to initiate an investigation. Such notification will include:

- The name of the Complainant(s)
- The name of the Respondent(s)
- The allegations under investigation including if known the date and location of the alleged conduct
- The applicable Policy including sections of the policy
- A description of the investigation process including: the identity of the investigator, the right of Complainant and Respondent to meet with the investigator with a minimum of five (5) business days' notice; have an Advisor and Support Person of their choice, present throughout the investigation process including all meetings with the investigator; provide information and evidence pertaining to the allegations; suggest witnesses to be included in the investigation; suggest questions to be posed of witnesses and the other Party; review and respond to all of the evidence gathered that is directly related to the allegations, prior to the drafting of the investigation report; receive a right to a copy of the investigation report redacted to protect privacy
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the resolution process, there is a determination of responsibility.
- Information regarding retaliation

Should additional allegations be brought forward, a revised Notice of Investigation shall be provided to both parties, in writing.

### **Conflict of Interest or Bias**

After a Notice of Investigation is issued to Complainant and Respondent, each party may object to the participation of the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) business days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator shall be made, in writing, to the Director of Management Operations. Objections to the appointment of the investigator shall be

made, in writing, to the Title IX Coordinator. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced.

### **Gathering Information**

The Title IX Coordinator will assign a trained investigator (who may be an external investigator), who will gather information, including interviews of the Complainant, Respondent and any witnesses, and any documents, materials or information considered to be directly related to the allegations. Information about an individual's character is not considered evidence and will not be gathered or considered by the investigator. It may be necessary to interview the Complainant, Respondent, or witnesses more than once during the course of the investigation as new information is learned and gathered.

Interviews may be conducted in person, or via video conference. The investigator shall make the interview notes available to the person interviewed for review. The interviewee will have three (3) business days to correct or comment on any statements in the interview notes. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has corrections or comments to the notes, the interviewee may submit a written response within three (3) business days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee by the deadline, their interview notes be presumed to be accurate.

Information or evidence that is not provided to the investigator during the investigation process will not be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably known to exist, nor available, at the time of the investigation.

Once all of the evidence has been gathered and the interviews have been conducted, the investigator will share all directly related inculpatory and exculpatory evidence with the Complainant and Respondent. At the direction of the Complainant and Respondent, directly related evidence may also be shared with their respective Advisor. The Complainant and Respondent will be provided at least 10 business days to respond to the evidence if they choose to do so by providing written comments or additional evidence or witnesses or additional questions to pose to the other party or witnesses to the investigator. Neither the Complainant nor the Respondent (nor their Advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or forward, post, or otherwise make available the information to any individual, group, organization, or agency. Any student or employee who fails to abide by this Policy may be subject to discipline. Any Advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process.

After receiving any responses from the Complainant or Respondent, the investigator may gather more relevant information or ask additional relevant questions of the Complainant, Respondent and witnesses as needed.



If new relevant evidence is provided by either party, or gathered by the investigator, the newly gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party shall have ten (10) business days in which to respond to the new evidence. Each may provide a response in writing to the investigator.

Information that is not provided to the investigator during the investigation and evidence review process will not be allowed during the hearing itself, nor considered by the Adjudicator unless it can be clearly demonstrated that such information was not reasonably known to, nor available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the Adjudicator shall have the authority to either exclude the evidence, or to send the matter back to the investigator for further, limited investigation.

### **Investigation Report**

Once the information gathered has been shared with the Complainant and Respondent, the investigator will author a report summarizing all of the relevant evidence gathered and all steps taken during the investigation process including the allegations under investigation, a list of individuals interviewed, a list of all relevant information (documents, emails, screen shots, texts, etc.) gathered, a summary of the relevant information from each interview. Following the conclusion of the investigation, the investigator shall provide the investigation report to the Title IX Coordinator who will determine the sufficiency of the investigation including whether the information contained in the report meets the requirements for resolution under this Appendix.

### **Outcome of Investigation and Notice of Hearing**

Following conclusion of the investigation, the Title IX Coordinator will send written notification to the Complainant and Respondent, and if requested to their respective Advisor, the conclusion of the investigation process and a notice of hearing along with a copy of the investigation report.

The Notice of Hearing will include:

- The date of the hearing (scheduled no less than 10 business days from the date of the Notice of Hearing)
- Identity of the Adjudicator
- Opportunity to provide to the Title IX Coordinator written object to the Adjudicator on the basis of a demonstrated bias or actual conflict of interest within three (3) business days of receipt of the Notice of hearing
- Each party has five (5) business days in advance of the hearing to submit to the Adjudicator the names of witnesses
- Each party has three (3) business days prior to the hearing to submit to the Adjudicator a preliminary list of questions they wish to pose to the other party or a witness
- Names of witnesses
- Questions to be reviewed by the Adjudicator to ensure relevance to the allegations
- Notice of opportunity to resolve the complaint via Alternative Resolution prior to the commencement of the Hearing

Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Adjudicator and appoint another.

### **Hearing Procedures**

The purpose of the hearing is to determine whether the conduct alleged occurred, and whether such conduct violates the Policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias.

The Hearing will be presided over by a trained hearing officer/adjudicator (“Adjudicator”), who will make evidentiary rulings and enforce the rules of decorum. The Adjudicator shall have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any limitations imposed will be communicated to the parties in advance of the hearing.

The University does not compel any individual to participate in a hearing. However, the Adjudicator shall have the discretion as to whether or not to take into consideration in either the hearing or in their final determination the statements made during the investigation of any individual who does not participate in the hearing and submit to questioning and, should the Adjudicator consider such statements, the Adjudicator shall further have the discretion to determine the reliability of such statements, as well as what weight, if any, to give them. Additionally, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent, or any witness.

Hearings may be conducted in person or via videoconferencing. If by videoconference, prior to the hearing, the Adjudicator shall have received instruction regarding the operation of any audio-visual equipment that will be used for the hearing. The Adjudicator shall also provide the participants instructions regarding how to participate in the hearing and any rules or guidelines for hearing participation.

Each hearing shall be recorded by the Adjudicator and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their respective Advisors, Adjudicator and Appeal Officer by contacting the Title IX Coordinator.

The Complainant, Respondent, and the Adjudicator all have the right to call witnesses. Witnesses must have information relevant to the allegations. No party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the University’s investigation. Each party shall submit to the Adjudicator the names of witnesses they would like to call no less than five (5) business days in advance of the hearing.

### **Hearing Advisor**

Each party is entitled to one Advisor at the hearing which shall be referred to as the Hearing

Advisor. The role of the Hearing Advisor is to ask questions of the other party and of witnesses, but not to advocate for, or respond for or otherwise speak on behalf of, the Complainant or Respondent during the hearing. No party shall be permitted to ask questions of the other party, or of a witness. In the event that a party does not appear for the Hearing, the Advisor for that party shall appear and may question the other party, and witnesses.

Student that has a support person and an advisor for the hearings should note that only the Advisor may ask questions on their behalf. Additionally, support persons are likewise not to advocate for, or are permitted to speak on behalf of the Complainant or Respondent, during the hearing.

A Hearing Advisor of the University's choosing shall be provided for any party who does not have a Hearing Advisor. If both parties do not have a Hearing Advisor, the University will provide one Hearing Advisor to serve as the Hearing Advisor for both parties.

### **Hearing Participation Guidelines**

The Adjudicator shall have the authority to maintain order and decorum at the hearing. The Adjudicator also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. Any party or witness who is disruptive may, at the discretion of the Adjudicator, be directed to continue their participation via video conferencing. Any Hearing Advisor who is disruptive may, at the discretion of the Adjudicator, be directed to continue their participation via video conferencing or removed from the hearing entirely. In the event the Adjudicator removes a Hearing Advisor, the Adjudicator will appoint another Hearing Advisor for the remainder of the hearing.

Any person disruptive to a hearing or who fails to follow these guidelines during the hearing, may be excluded from the process by the Hearing Coordinator or designee, and/or by the Adjudicator. If this person is a student or employee, he or she may be subject to disciplinary sanctions appropriate to the disruption.

The following will apply during a hearing:

- Hearings will be convened in a private room and will not be open to the public. A record of the hearing (digital audio and/or written) will be maintained by the University. No other recordings shall be made at the hearing.
- At the request of either Party, the Hearing will proceed with the Parties located in separate rooms with technology enabling the decision-maker(s) and Parties to simultaneously see and hear the Party or the witness answering questions.
- All Parties have a right to a fair and impartial hearing. However, a Party's failure to attend a scheduled hearing after receiving appropriate, timely notice, or a Party's failure to participate appropriately in the proceeding, are not sufficient reasons to halt the Adjudicator from rendering a decision.
- The Respondent is presumed not responsible for the alleged Sexual Misconduct unless and until the Adjudicator determines after the hearing that Respondent is responsible by a preponderance of the evidence.

- In a Hearing involving more than one Respondent or more than one Complainant, the Title IX Coordinator, or designee, in their discretion, may permit the hearings concerning each Respondent or Complainant to be conducted either separately or jointly.
- Neither the Respondent nor Complainant may question one another directly. Each Party's Advisor may ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questioning at the Hearing must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally. Before a Complainant or Respondent answers a question, the Chair of the Adjudicator will first determine whether the question is relevant or otherwise not permissible and explain any decision to exclude a question as not relevant.

After the conclusion of the hearing, the Board will adjourn the hearing. The Board will discuss privately and will decide by majority vote if the Respondent is responsible for one or more policy violations. Decisions are made based on a "preponderance of evidence," meaning the incident was more likely than not to have happened. Lack of voluntary consent constitutes the violation. Only if the Respondent is in violation of a policy would the process move to the sanctioning step, which is explained in more detail below in "Imposition of Sanctions."

Following the hearing, the Adjudicator will then prepare a written report. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as Complainant, Respondent, or witness.

The Adjudicator's report will include:

- The allegations.
- Description of all procedural steps taken to date.
- Findings of fact.
- Conclusion of application of facts to the Policy; and
- Rationale for each allegation.

If the Adjudicator determines that there is no finding of responsibility, the Adjudicator's report shall be provided to the Title IX Coordinator, who shall communicate the findings, along with a copy of the Adjudicator's report, to the parties, together with procedures for appeal.

If the Respondent is found responsible for violating University policy, the Adjudicator, in consultation with either the Director of Student Conduct or the Director of Human Resources, will deliberate and decide upon which sanction(s) shall be applied. The Title IX Coordinator shall be notified of the determination of sanction. A sanction is any change in status or requirement resulting from being found in violation of a University policy including being found responsible for conduct in violation of the Policy. The Adjudicator's report, together with the determination of the appropriate sanctions, shall be provided to the Title IX Coordinator, who shall communicate the findings and the sanction, along with a copy of the Adjudicator's report, to the parties, together with procedures for appeal. The Complainant shall also be provided with

information on remedies, as determined by the Title IX Coordinator.

### **Determining Sanctions**

The Adjudicator and Director of Student Conduct, or designee, or the Director of Human Resources, or designee, will consider the following as aggravating factors in determining sanction(s):

- Type of misconduct
- Frequency of the misconduct
- Severity of the misconduct
- Previous conduct history of the Respondent
- Non-adherence to interim measures (i.e., no contact agreements, etc.)
- Pre-meditated use of drugs or alcohol to facilitate the violation
- Use of force or weapon in committing the violation
- Multiple actors committed the violation

When determining an appropriate sanction, consideration will be given to the Complainant's ability to freely access the benefits of their education or employment and participate in the University community.

Students found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of University suspension or University expulsion. Employees found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of dismissal or referral to an employee-dismissal process. Individuals who are not students or employees found responsible for Nonconsensual Sexual Intercourse face a recommended sanction of permanent removal from campus. Deviations from these recommended sanctions are rare and made where there are compelling mitigating circumstances.

### **Recommended Sanctions**

Students found responsible for violating the Nonconsensual Sexual Intercourse part of the Sex Discrimination and Sexual Harassment Policy, as well as Dating Violence, or Domestic Violence, face a recommended sanction of University suspension or University expulsion. Employees found responsible for violating the Nonconsensual Sexual Intercourse part of the Sex Discrimination and Sexual Harassment Policy, as well as Dating Violence or Domestic Violence, face a recommended sanction of dismissal or referral to an employee-dismissal process. Individuals who are not students or employees found responsible for violating a University Policy face a recommended sanction of permanent removal from campus.

## **III. APPEALS**

A Party may appeal a dismissal of a Formal Complaint, or the Final Written Decision, on the following grounds:

- A procedural error occurred that materially affected the outcome of the matter.

- 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.
- 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 must be filed within 7 business days of the dismissal of a Formal Complaint or the date of the Final Written Decision

#### **Notification of Receipt of Appeal**

The Appeal Officer will acknowledge receipt of the appeal and make the non-appealing party aware an appeal has been filed and provide the non-appealing party 7 business days to provide a written response to the appeal to the Appeal Officer. A response to the appeal is not required and a lack of response to the appeal does not indicate agreement with the appeal.

#### **Review and Determination of the Appeal**

The Appeal Officer will review the written appeal and any response to the appeal, along with any documents pertaining to the investigation and any additional supporting documents pertaining to the appeal.

The Appeal Officer will issue a written determination regarding the appeal to Complainant, Respondent, and the Title IX Coordinator within 14 business days following the deadline to submit appeal materials.

The determination of the Appeal Officer may:

- Affirm the findings/outcome of the investigator
- Return the matter to the investigator or Title IX Coordinator to review and consider any new evidence not previously available during the investigation
- Return the matter to the investigator or Title IX Coordinator to correct any procedural error that may have materially affected the outcome of the investigation and determination by the investigator

The determination of the Appeal Officer is final.

#### **IV. RECORD RETENTION**

The Title IX Office will maintain all records relating to complaints and resolutions under Appendix A for a period of seven (7) years.

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## APPENDIX B RESOURCES

### Resources

If you have had an unwanted, confusing, coerced, or forced sexual experience, or have concerns about your relationship, there are confidential supportive resources available. Each survivor responds uniquely and may experience a wide range of emotions and reactions. It is important to realize that these reactions and feelings are normal reactions of people who have been sexually assaulted or subjected to nonconsensual sexual contact. Below is an explanation of some of the options and resources that are available to you. The resources below work as a collaborative team to provide the best support possible. They are available to you in an immediate and ongoing capacity as needed.

Please remember that no matter what you do, there is no one correct way to handle a situation. Whatever you choose to do, it is important to pay attention to what makes you feel safe.

### Confidential Campus Resources

Disclosures made to Violence Prevention Education and Advocacy, Counseling and Wellness Center, Student Health Clinic and Campus Ministry staff listed below will be held in strict confidence and will not serve as notice to the university requiring initiation of a review of the disclosed conduct.

- Violence Prevention Education and Advocacy
  - (504) 520-7503
  - 209 Administration Building
- Counseling and Wellness Center
  - (504) 504-520-7315
  - 202 St. Joseph Academic and Health Resource Center
  - Open Monday-Thursday 9am-8pm and Friday 9am-5pm (Fall and Spring)
  - Open Monday-Friday 9am-5pm (summer)
  - [www.xula.edu/counselingservices](http://www.xula.edu/counselingservices)
- Student Health Services
  - (504) 520-7396
  - 217 St. Joseph Academic and Health Resource Center
  - Clinic Hours: Open 8:30am-4:30pm Monday-Friday
  - [www.xula.edu/studenthealthcenter](http://www.xula.edu/studenthealthcenter)
- Office of Campus Ministry
  - 101A Administration Building
  - (504) 520-7593
  - <http://www.xula.edu/faithandleadership>

## Non-Confidential Campus Resources

- Title IX Coordinator
  - 504-520-6712
  - [titleix@xula.edu](mailto:titleix@xula.edu)
- Deputy Title IX Coordinator
  - 504-520-7229
  - [Deputytitleix@xula.edu](mailto:Deputytitleix@xula.edu)
- Office of Housing and Residence Life
  - 504-520-7321
  - 316R University Center
  - [www.xula.edu/residentialhalls](http://www.xula.edu/residentialhalls)
- Campus Police
  - (504) 520-7490
  - 3801 South Carrolton Ave.
  - [www.xula.edu/campussafetyandsecurity](http://www.xula.edu/campussafetyandsecurity)
- Human Resources (Faculty and Staff Reports)
  - (504) 520-5281
  - 410 Xavier South
  - [www.xula.edu/humanresources](http://www.xula.edu/humanresources)
- Student Services
  - 504-520-7357
  - 305 University Center
  - [www.xula.edu/studentlife](http://www.xula.edu/studentlife)

## Off-Campus Support and Resources

- University Medical Center, Emergency Department: 504-702-2138
  - The Forensic Program is located at University Medical Center New Orleans in the
  - Emergency Department. To access service, please go to the 2nd Floor of the
  - Emergency Department and request a forensic consult.
  - <http://www.umcno.org/Forensic>
- New Orleans Police Department
  - Non-Emergency Calls/To File Report **504-821-2222**
  - Emergency Calls: **911**

## Local Crisis Hotlines:

- New Orleans Family Justice Center
  - 504-866-9554
- Sexual Trauma Awareness and Response
  - 855-435-7827
- Louisiana Foundation Against Sexual Assault
  - 225-372-8995
- Louisiana Domestic Violence Hotline
  - 1-888-411-1333



- Project Save (emergency legal representation for domestic violence)
  - 504-310-6872
- Tulane Law School Domestic Violence Clinic
  - 504-865-5153
- New Orleans Children’s Advocacy Center (if you are under the age of 17)
  - 504-896-9237

### **National Crisis Hotlines**

- National Sexual Assault Hotline
  - 1-800-656-4673
  - <https://www.rainn.org/> for chat message assistance
- National Domestic Violence Hotline
  - 1-800-799-7233
- National Crime Victim Hotline
  - 1-800-394-2255
- National Suicide Prevention Lifeline
  - 1-800-273-8255
- 1 in 6 Online Helpline: [1in6.org/helpline](http://1in6.org/helpline)
  - A helpline for male survivors of childhood sexual abuse and adult sexual assault (24/7, free and anonymous)
- 1 in 6 Online Support Groups: <https://supportgroup.1in6.org/#/terms-of-service>,
  - Support groups for male survivors of childhood sexual abuse and adult sexual assault (free and anonymous)
- The Trevor Project: Crisis and Suicide Prevention Lifeline for LGBTQIQA Youth 1-
  - 866-488-7386
- LGBT National Help Center 1-888-843-4564, peer support chat:
  - <https://www.glbthotline.org/peer-chat.html>
- National Coalition of Anti-Violence Programs: National Advocacy for LGBTQIQA
  - Communities 1-212-714-1141
- Crisis Text Line: Speak to a trained crisis counselor
  - Text START to 741-741 from anywhere in the US
- Identity Theft Resource Center
  - 1-888-400-5530
- National Indigenous Women’s Resource Center
  - 406-477-3896
- Women’s Law: Information on protective orders
  - <https://www.womenslaw.org/>